

Texas Historical Statutes Project

1964 SUPPLEMENT
TO
VERNON'S TEXAS STATUTES 1948



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**VERNON'S
TEXAS STATUTES
1964 SUPPLEMENT**

**Including General and Permanent Laws
of the
57th Legislature, Third Called Session
and the
58th Legislature, Regular Session**

TABLES and INDEX

**Supplementing
Vernon's Texas Statutes 1948
and
1950, 1952, 1954, 1956, 1958, 1960 and 1962 Supplements**

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VERNON LAW BOOK COMPANY**

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Tex.St.Supp. 1964

1964 SUPPLEMENT

This Supplement to Vernon's Texas Statutes includes the laws of a general and permanent nature enacted at the Third Called Session of the 57th Legislature and the Regular Session of the 58th Legislature. The sessions convened and adjourned as follows:

	Convened	Adjourned
Third Called Session, 57th Leg.	Jan. 3, 1962	Feb. 1, 1962
Regular Session, 58th Leg.	Jan. 8, 1963	May 24, 1963

This volume supplements the 1948 edition of Vernon's Texas Statutes and the 1950, 1952, 1954, 1956, 1958, 1960 and the 1962 Supplements.

The constitutional amendments approved by the voters on November 6, 1962 and November 9, 1963 are also included.

To assist the user in readily locating any article or section affected by legislation from 1949 through 1963, a special Table of Articles has been prepared and is printed on the colored pages herein.

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

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

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

VERNON LAW BOOK COMPANY

February, 1964

Cite This Book by Article

Vernon's Texas Civ. St., 1964 Supp. Art. —.

Vernon's Texas P. C., 1964 Supp. Art. —.

Vernon's Texas C. C. P., 1964 Supp. Art. —.

Vernon's Texas Prob. Code, § —.

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

Vernon's Texas Elec. Code, Art. —.

Vernon's Texas Ins. Code, Art. —.

Vernon's Texas Tax.Gen., Art. —.

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CIVIL STATUTES	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.	
Civ.St. Art.	Effect	St.Supp.	Effect	St.Supp.	
1a	New	1961	46c-4	Am.	1961
17	Am.	1964	46c-6	Am.	1961
23	Am.	1958	46c-7	Rep.	1961
28a	Am.	1964	46c-7 (former- ly 46c-8)	Am.	1961
29	Am.	1961	46c-8	New	1961
29b	New	1958	46c-1	Am.	1952
29c	New	1958	46c-3(2)	Am.	1961
29d	New	1964	46c-3(2)	Am.	1964
41a	Am.	1960	46c-13	Am.	1952
§§ 2, 3	Am.	1961	52	Rep.	1954
§ 4	Am.	1952	57	Am.	1954
§ 4(a)	New	1961	57	Am.	1960
§ 5	Am.	1952	57	Am.	1961
§ 8	Am.	1952	69	Am.	1958
§ 8	Am.	1961	82a	New	1956
§§ 9, 10	Am.	1961	82a	Am.	1958
§ 12	Am.	1961	93b, § 2	Am.	1956
§ 13	Am.	1961	§ 2(e)	Am.	1958
§ 15	Am.	1952	§ 3	Am.	1954
§ 15	Am.	1961	§ 3	Am.	1956
§§ 16, 18	Am.	1961	§ 3	Am.	1958
§ 20	Rep.	1961	§ 4	Am.	1956
§ 22	Am.	1961	§ 7	Am.	1954
§ 23	Am.	1961	§ 10	Am.	1954
§ 24	Am.	1961	93c	New	1954
46a, § 1a	Am.	1952	94 to 108	Rep.	1961
§§ 1b, 1c	New	1952	97	Am.	1950
§ 5	Am.	1952	108a	New	1961
§ 6	Am.	1952	117, § 3	Am.	1956
§ 6	Am.	1961	117a	Rep.	1954
§ 6	Am.	1964	118a, § 3	Am.	1956
§ 9	Am.	1952	§ 9	Am.	1956
46b	Am.	1952	§ 12	Am.	1954
46c-1	Am.	1961	§ 12	Am.	1956
46c-3	Am.	1961			

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
118b,			135b-5	New	1964
§ 1	Am.	1964	135c	New	1956
§ 3	Am.	1964	§ 1	Am.	1961
§ 4	Am.	1964	149j	New	1952
§ 6	Am.	1964	149k	New	1952
§ 11	Am.	1964	165-9	New	1964
§ 24	Am.	1956	165a-4,		
§ 24A	New	1956	§ 5(H)	Am.	1960
§ 25	Am.	1964	§ 7	Am.	1960
§ 27	Rep.	1964	165a-4a	New	1961
118c-1,			165a-8	New	1950
§ 2	Am.	1956	165a-9	New	1952
§ 10	Am.	1954		Rep.	1954
§ 10	Am.	1956	165a-10	New	1954
118c-2,			§ 1	Am.	1956
§ 2	Am.	1956	165-3a	New	1961
§ 10	Am.	1954	165-4a	Am.	1950
§ 10	Am.	1956	§ 2	Am.	1952
118c-2	Rep.	1958	§ 2	Am.	1960
118c-3	New	1956	165-4b	New	1950
§ 2	Am.	1958	165-6	New	1950
§§ 5, 6	Rep.	1958	165-7	New	1950
118d	New	1950		Rep.	1954
§ 6	Am.	1952	165-8	New	1958
§ 9	Am.	1952	§ 9	Am.	1960
§§ 14-16	Am.	1952	§ 9	Am.	1961
note	New	1954	§ 15	Am.	1961
118e	New	1950	§ 16	Am.	1961
119	Am.	1960	§ 17	Am.	1961
120	Rep.	1960	§ 17a	New	1961
121	Am.	1960	§ 18	Am.	1961
122	Am.	1960	174	Am.	1961
123	Am.	1960	176B	New	1950
124	Am.	1960	179a	New	1958
125	Am.	1960	179b	New	1958
126	Am.	1960	179c	New	1964
127	Am.	1960	190a-2	New	1958
128	Am.	1960	190d-1	New	1960
128a	New	1961	190j	New	1960
129	Am.	1960	192b	Am.	1952
130	Am.	1960	§ 1	Am.	1961
131	Am.	1960	193	Am.	1952
131a	New	1960	193	Am.	1961
132	Am.	1960	194a	Rep.	1964
133	Am.	1960	195	Am.	1952
134	Rep.	1960	§ 1	Am.	1961
135	Am.	1960	§ 2	Am.	1961
135	Am.	1964	§ 2	Rep.	1964
135b-1	Am.	1958	197a	New	1958
135b-1	Rep.	1964	198	Am.	1964
§ 7	Am.	1956	199(5)	Am.	1952
§ 8	Am.	1956	199(5)	Am.	1954
§ 10	Am.	1956	199(5)	Am.	1961
§ 15	Am.	1956	199(6)	New	1958
135b-2	New	1950	199(7)	Am.	1950
	Rep.	1952	199(7)	Am.	1954
135b-3	New	1952	199(9)	Am.	1954
	Rep.	1954	199(9)	Am.	1956
135b-4	New	1954	§ 9	Am.	1950
135b-4	Am.	1958	199(10)	Am.	1960

ARTICLES AFFECTED FROM 1949 TO 1963

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
199(11)	Am.	1950	199(128)	New	1950
199(11)	Am.	1952	199(131)	New	1958
199(11)	Am.	1956	199(132)	New	1952
199(11)	Am.	1958	199(132)	Am.	1956
199(11)	Am.	1960	§ 6	Am.	1960
199(11)	Am.	1964	199(134)	New	1950
199(14)	Am.	1952	199(135)	New	1952
199(14)	Am.	1956	199(135)	Am.	1954
199(19),			§ 1	Am.	1958
§§ 8-12	New	1950	§ 3	Am.	1958
§§ 8-12	Rep.	1952	§ 5	Am.	1958
199(25)		1956	§§ 7-9	Am.	1958
199(32)	New	1952	199(136)	New	1956
199(32)	New	1961	199(138)	New	1956
199(33)	Am.	1956	199(138)	Am.	1956
199(36)	Am.	1950	199(139)	Am.	1956
199(37)	Am.	1956	199(140)	New	1956
199(37)	Am.	1964	199(142)	New	1956
199(38)	Am.	1956	199(142)	Am.	1956
199(42)	New	1961	199(143)	New	1956
199(43), § 5	Am.	1960	199(144)	New	1961
199(51)	Am.	1950	199(145)	New	1956
§ 2	Am.	1954	199(146)	New	1960
199(58)	Am.	1956	199(150)	New	1958
199(62)	Am.	1956	§ 16	Rep.	1964
199(63)	Am.	1952	199(153)	New	1956
199(64)	New	1958	199(154)	New	1958
199(70)	Am.	1950	199(155)	New	1958
199(72)	Am.	1960	§ 5	Am.	1964
199(75)	Am.	1950	199(156)	New	1958
199(75)	Am.	1956	199(160)	New	1958
199(76)	Am.	1950	199(161)	New	1960
199(77)	Am.	1950	§ 6	Am.	1964
199(79)	Am.	1950	199(162)	New	1964
199(83)	Am.	1954	199(163)	New	1964
199(84)	Am.	1964	199(164)	New	1964
199(85)	Am.	1950	199(165)	New	1964
199(87)	Am.	1950	199(166)	New	1964
199(88)	New	1952	199(167)	New	1964
199(88)	Am.	1956	200a,		
199(90)	New	1961	§ 1	Am.	1960
199(102)	Am.	1954	§ 2a	New	1961
199(102)	Am.	1956	§ 5a	New	1958
199(102)	Am.	1961	249a,		
199(104)	New	1961	§§ 2-5	Am.	1952
199(105)	Am.	1950	§§ 3-14	Am.	1956
199(105)	Am.	1952	§§ 7-10	Am.	1952
199(106)	Am.	1960	§§ 12, 13	Am.	1952
199(107)	Am.	1950	§ 14	Rep.	1952
199(109)	Am.	1956	260-1,		
199(109)	Am.	1961	§ 1	Am.	1956
199(112)	Am.	1956	§ 1(1)	Am.	1958
199(114) (L)	New	1954	§ 2	Am.	1956
199(115)	New	1950	§ 4	Am.	1956
199(117), § 4	Rep.	1950	279a	Am.	1958
199(118)	New	1950	306	Am.	1956
199(120)	New	1958	307A	Am.	1958
199(121)	New	1960	307B	Am.	1961
199(122)	New	1958	319	Am.	1952

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
320a-1	Am.	1950	331e	New	1950
322	Am.	1964	331f	New	1950
322c	New	1950	331g	New	1952
325b	New	1961	331g-1	New	1956
326k-12	Am.	1950	§ 2a	New	1960
	Am.	1954	331h	New	1954
§ 1a	New	1958	331i	New	1960
§ 2-a	New	1952	331j	New	1961
§ 2b	New	1960	342-101A	New	1952
326k-13	New	1950	342-104	Am.	1961
326k-14	New	1952	342-109	Am.	1960
326k-14	Am.	1958	342-112	Am.	1952
326k-14	Am.	1964	342-112A	New	1952
326k-15	New	1952	342-115	Am.	1964
326k-15	Am.	1958	342-201		
326k-16	New	1952	to		
326k-17	New	1952	342-205	Am.	1952
326k-17	Rep.	1958	342-204	Am.	1964
326k-18			342-205	Am.	1961
to			342-208	Am.	1952
326k-21	New	1952	342-208A	New	1952
326k-19	Am.	1961	342-208A	Rep.	1960
326k-21	Am.	1960	342-301	Am.	1958
326k-22			342-301	Am.	1961
to			342-303	Am.	1960
326k-26	New	1954	342-304	Am.	1964
326k-25			342-305	Am.	1964
§§ 1, 2	Am.	1964	342-314	New	1956
326k-27			342-402	Am.	1960
to			342-404	Am.	1960
326k-36	New	1956	342-406	Am.	1960
326k-28, §§ 4, 5	Am.	1961	342-408	Am.	1960
326k-28, §§ 4, 5	Am.	1964	342-501A	New	1958
326k-30a	New	1960	342-502	Am.	1960
326k-36a	New	1961	342-504	Am.	1960
326k-37	New	1958	342-504	Am.	1964
326k-38	New	1958	342-505a	New	1956
326k-38	Rep.	1961	342-507	Am.	1950
326k-38a	New	1961	342-507	Am.	1960
326k-39	New	1958	342-509a	New	1964
326k-39	Rep.	1961	342-606	Am.	1960
326k-40	New	1958	342-704	Am.	1958
§ 1	Am.	1961	342-707a	Am.	1950
§ 2	Am.	1961	342-709	Am.	1964
326k-41	New	1960	342-902	Am.	1958
326k-41a	New	1960	342-903	Am.	1958
326k-41a	Am.	1961	342-903	Am.	1960
326k-42	New	1960	342-903	Am.	1964
326k-43	New	1960	342-908	Am.	1964
326k-43a	New	1964	489d	New	1964
326k-44	New	1961	548b	New	1956
326k-45	New	1961	§ 1	Am.	1964
326k-46	New	1961	§ 1a	Am.	1964
326k-47	New	1961	§ 3	Am.	1964
326k-48	New	1964	§ 5	Am.	1964
326k-49	New	1964	579-1 to 579-42	New	1956
326k-50	New	1964	579-1 to 579-42	Rep.	1958
326k-51	New	1964	580-1 to 580-39	New	1956
331d	Am.	1950	580-1 to 580-39	Rep.	1957

ARTICLES AFFECTED FROM 1949 TO 1963

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
581-1 to 581-39	New	1958	677	Rep.	1950
581-5			678	Am.	1952
Subs. E	Am.	1964	678d, § 1(a)	New	1961
Subs. G-I	Am.	1964	678e	New	1964
Subs. O	Am.	1964	678m	New	1956
Subs. Q	New	1960	678m		
Subs. R	Added	1964	§ 1	Am.	1964
581-7			§ 15	Am.	1964
Subs. A	Am.	1964	§ 16A	New	1964
Subs. D	Added	1964	678m-1	New	1958
581-9			678m-2	New	1958
Subsec. B	Am.	1964	§ 1	Am.	1958
581-13	Am.	1964	678m-3	New	1958
581-14	Added	1964	678m-4	New	1960
581-22, par. A	Am.	1961	681	Am.	1950
581-29	Am.	1961	684-687	Rep.	1960
Subsec. G	Rep.	1964	688	Am.	1952
581-33	Am.	1964	688a	New	1952
581-35,			689	Am.	1952
G	Am.	1960	689a-2	Am.	1952
M	Am.	1960	689a-3	Rep.	1958
582-1	New	1960	689a-4	Am.	1952
§ 3a	Am.	1964	689a-4a	New	1952
600a,			689a-5	Am.	1952
§ 3	Am.	1950	689a-5	Am.	1958
§ 3	Am.	1952	689a-6	Am.	1952
§ 5	Am.	1952	689a-7	Am.	1958
§ 24	Am.	1952	689a-8a	New	1958
§ 30	Am.	1954	689a-9a	New	1954
600a	Rep.	1956	689a-17	Rep.	1958
601	New	1954	689a-17a	New	1958
602	Am.	1954	689a-18	Rep.	1958
603-605	Rep.	1958	689a-19a	New	1958
613	Am.	1956	691	Am.	1952
631-633	Rep.	1958	692	Am.	1952
634	Am.	1956	694	Am.	1950
(B)	New	1950	695		
(C)	New	1952	§ 19A	Added	1964
634	Rep.	1958	695c,		
634 ¹ / ₄	Rep.	1958	§ 1	Am.	1964
634a	Rep.	1958	§ 2(1) a	New	1958
636-648	Rep.	1958	§ 2(3)	Am.	1961
649	Am.	1956	§ 4(7)	Am.	1952
649-652	Rep.	1958	§ 4(7)	Am.	1964
653	Am.	1956	§ 7A	New	1954
653-654	Rep.	1958	§ 8	New	1950
655	Am.	1956	§ 8(a)	Am.	1954
656	Rep.	1956	§ 14	Am.	1961
659-664	Rep.	1958	§ 15	Am.	1952
664-2	New	1958	§§ 16-A		
664-3	New	1958	to		
666	Am.	1950	16-C	New	1958
666	Am.	1958	§ 17	Am.	1964
666-1	Am.	1950	§ 17A	New	1964
666-1	Rep.	1958	§ 18	Am.	1964
666-2	New	1950	§ 18A	Added	1964
666-2	Rep.	1958	§ 18B	Added	1964
666a-1	Rep.	1958	§ 19	Am.	1964
666a-2	New	1958	§ 27(1)	Am.	1958

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695c,			840	Am.	1964
§ 27(1)	Am.	1960	842a	Am.	1961
§ 28	Am.	1958	842b-842f	Rep.	1952
§ 29	Am.	1954	842g	New	1952
§ 29-A	New	1960	852-881	Rep.	1964
695c note	Am.	1958	852a	New	1964
695c-1	New	1964	881a-1 to 881a-69	Rep.	1964
695g	New	1952	881a-8	Am.	1952
§ 1	Am.	1954	881a-9	Am.	1950
§ 1	Am.	1956	881a-9	Am.	1952
§ 1(b)	Am.	1964	881a-10	Am.	1950
§§ 2-12	Am.	1954	881a-12	Am.	1952
§ 3	Am.	1953	881a-23	Am.	1954
§ 4	Am.	1956	881a-23	Am.	1958
§ 7	Am.	1956	881a-24	Am.	1950
§ 13a	New	1954	881a-25	Am.	1950
695h	New	1956	881a-37	Am.	1950
§ 1(c)	Am.	1958	881a-44	Am.	1950
§ 1(c)	Am.	1961	881a-57	Am.	1950
695i	New	1958	881a-61	Am.	1950
695j	New	1961	881a-63	Am.	1950
702	Am.	1954	881b	New	1950
703a	New	1956	881b	Rep.	1964
703b	New	1958	911a,		
708b-1	Am.	1950	§ 15	Am.	1961
709a	New	1954	§ 16	Rep.	1961
709b	New	1961	911b,		
709c	New	1961	§ 1a(1) (e)	New	1956
717	Am.	1952	§ 1a(1) (e)	Am.	1958
717f	New	1950	§ 1c	Added	1964
717g	New	1952	§ 1(i)	Am.	1961
717h	New	1952	§ 1j	Added	1964
717i	New	1954	§ 1¼	New	1964
717j	New	1956	912a-2	Am.	1952
717j	Rep.	1961	912a-3	Am.	1952
717j-1	New	1961	912a-3	Am.	1956
717k	New	1956	912a-3	Am.	1964
717l	New	1958	912a-4	Am.	1952
717m	New	1960	912a-5	Am.	1964
717n	New	1961	912a-15	Am.	1964
718	Am.	1964	912a-24	Am.	1956
725b	New	1961	912a-28		
752a	Am.	1956	to		
752y-4	New	1958	912a-33	New	1956
752y-5	New	1960	812a-31	Am.	1964
784a, § 4	Am.	1960	932	Rep.	1956
795a	New	1964	966b	New	1952
802g	New	1956	966c	New	1954
802h	New	1961	§ 4	Am.	1956
822	Rep.	1954	966d	New	1956
835h	New	1950	966e	New	1958
835i	New	1952	966f	New	1960
835j	New	1950	§ 4	Am.	1960
835k	New	1950	966g	New	1960
835l	New	1952	966h	New	1961
835m	New	1954	969a-1	New	1954
835n	New	1960	969d	New	1954
836	Am.	1950	970a	New	1964
838	Rep.	1964	971a	New	1950

ARTICLES AFFECTED FROM 1949 TO 1963

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
973	Am.	1954	1060a	Am.	1964
973a	New	1950	1066b,		
973b	New	1960	§ 1	Am.	1952
974a,			§ 1	Am.	1960
§ 1	Am.	1950	§ 1a	New	1964
§ 3	Am.	1956	§ 2	Am.	1952
§ 10	Rep.	1950	§ 2	Am.	1960
974c-2	New	1950	§ 2a	New	1952
974c-3	New	1950	§ 2a	Am.	1960
974c-4	New	1950	§ 2a	Am.	1964
974c-5	New	1961	1085a	Am.	1950
974c-6	New	1961	1085a	Am.	1952
974d-2	New	1950	1093	Am.	1964
974d-3	New	1954	1098	Am.	1964
974d-4	New	1956	1105b, § 1	Am.	1952
974d-5	New	1956	§ 9	Am.	1964
974d-6	New	1958	1105c	New	1961
974d-7	New	1958	1109a,		
974d-8	New	1961	§ 2	Am.	1954
974d-9	New	1961	§ 6	Am.	1954
974d-10	New	1964	§ 7	Am.	1954
974e-7	New	1950	1109e	New	1950
974e-8	New	1952	1109f	New	1956
974g	New	1950	1109f-1	New	1960
§ 1	Am.	1954	1109g	New	1956
974-1	New	1950	1109h	New	1958
974-2	New	1950	§ 4	Am.	1960
976a	New	1950	§ 4	Am.	1961
976b	New	1950	§ 5(d)	Am.	1960
977	Am.	1950	1109i	New	1958
980	Am.	1964	§ 1	Am.	1960
981	Rep.	1964	§ 3a	New	1960
982	Rep.	1964	1109i-1	New	1961
984	Rep.	1964	1109j	New	1960
985	Rep.	1964	1109k	New	1960
986	Rep.	1964	1110b	New	1950
989	Am.	1964	1110c	New	1964
999a	New	1950	1111a	New	1950
1011	Am.	1950	1111b	New	1950
1011a	Am.	1960	§ 1	Am.	1952
1011f	Am.	1950	1111c	New	1952
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1011g	Am.	1960	1113a	Am.	1954
1011g	Am.	1961	1118n-5	New	1950
1011i	New	1958	§ 1a	New	1956
1015c-1	New	1956	1118n-6	New	1956
1015g,			1118n-7	New	1956
§ 1	Am.	1956	1118n-8	New	1958
§ 5	Am.	1956	1118n-9	New	1961
§ 13	Am.	1956	1118n-10	New	1964
§§ 13(a) to 13(c)	New	1956	1118q	New	1950
1015g-1	New	1961	1118r	New	1952
1015h	New	1950	1118s	New	1952
1015i	New	1954	1118t	New	1954
1015j	New	1956	1118u	New	1954
1015k	New	1960	1118v	New	1958
1016	Am.	1961	1118w	New	1958
1027c-1	New	1964	1153a	New	1961

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1154	New	1950	1269m,		
1161	Am.	1954	§ 8	Am.	1950
1170	Am.	1961	§ 9	Am.	1950
1170a	New	1952	§ 9	Am.	1958
1171	Rep.	1961	§ 12	Am.	1958
1174a-1	New	1952	§ 13	Am.	1958
1174a-2	New	1954	§ 14	Am.	1950
1174a-3	New	1956	§ 14	Am.	1958
1174a-4	New	1960	§ 14(D)	Am.	1956
1174a-5	New	1961	§ 14D	Am.	1964
1174a-6	New	1961	§ 16	Am.	1952
1174e	New	1961	§ 16	Am.	1956
1175, subd. 2	Am.	1964	§ 16a	New	1950
1176b-3	New	1961	§ 18	Am.	1956
1182c-1	Am.	1950	§ 20	Am.	1950
1182c-1	Am.	1958	§ 21	Am.	1956
§ 2a	New	1954	§ 22	New	1950
§ 2b	New	1961	§ 22a	New	1952
§ 4	Am.	1960	§ 23	Am.	1952
1182c-2	New	1958	§ 25	Rep.	1958
1182c-3	New	1958	§ 26	Am.	1956
1182c-3	Rep.	1960	§ 26	Am.	1958
1182c-4	New	1958	§ 26(a)	New	1958
1182c-5	New	1960	§ 27(a)	Am.	1958
1182c-6	New	1960	§ 27(b)	Am.	1952
1182d-1	New	1960	§ 27(b)	Am.	1956
1187a-2	New	1956	§ 28(a)	New	1952
1187c	New	1950	1273a	Rep.	1952
§ 7	Am.	1958	1273b	New	1952
1187e, §§ 1-9	Am.	1960	1287a,		
1187f	New	1961	§ 3	Am.	1954
1188	Am.	1958	§§ 3a, 3b	New	1950
1191	Am.	1958	§ 3a	New	1954
1191a	New	1958	1287-1	Am.	1950
1196(a)	New	1950	§§ 1-9	Rep.	1964
1197a	New	1954	§ 8	Am.	1958
1200c	New	1950	§ 10	New	1958
1200c	Am.	1961	1287-2	Am.	1964
1200d	New	1956	1287-3	New	1964
1211	Am.	1964	1291a	New	1964
1266	Am.	1960	1299	Rep.	1964
1266	Am.	1961	1301a	New	1964
1268a	New	1960	1302	Am.	1950
1268b	New	1964	(7)	Am.	1952
1269b-2	New	1960	(38)	Am.	1954
1269j-4	New	1952	§ 59	Rep.	1961
1269j-5	New	1956	(95)	Am.	1954
§ 1	Am.	1958	(108)	New	1952
§ 4(a)	New	1961	1302	Rep.	1961
1269j-6	New	1956	1302-1.01		
1269j-7	New	1958	to		
1269l, § 7-a	New	1952	1302-6.26	New	1961
1269l-1	New	1950	1302-2.06,		
1269l-2	New	1958	§ A	Am.	1964
§ 1	Am.	1961	1302-2.06,		
1269l-3	New	1958	§ B	Added	1964
1269m,			1302-6.04	Am.	1964
§ 2	Am.	1958	1302a	Rep.	1952
§ 5a	New	1950	1302b to 1302i	Rep.	1961

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1302d-1	New	1956	1438a	New	1952
1302g	New	1950	1440	Am.	1964
1302h	New	1950	1478-1494	Rep.	1961
1302i	New	1954	1499a	New	1952
1303, 1304	Rep.	1961	1513a	New	1958
1304a	Rep.	1961	1524a,		
1305	Rep.	1961	§ 2	Am.	1952
1306	Rep.	1961	§ 4	Am.	1950
1307	Rep.	1961	§ 7	Am.	1952
1308-1314	Rep.	1961	§ 14	New	1960
1314	Am.	1952	1524a-1	New	1952
1314a	New	1960	1524a-1	Rep.	1964
1315-1317	Rep.	1961	1528b,		
1318-1320	Rep.	1961	§ 3	Am.	1958
1321a	Rep.	1961	§ 12	Am.	1958
1322-1326	Rep.	1961	1528c	New	1950
1327	Am.	1952	§ 2(7)	Am.	1954
1327	Rep.	1961	§ 4(5)	Am.	1954
1327a	New	1950	1528d	New	1964
1327a-1333	Rep.	1961	1529	Am.	1954
1334a	Rep.	1953	1529	Rep.	1961
1334b	New	1956	1530	Rep.	1961
1334b	Rep.	1961	1531	Rep.	1961
1335-1347	Rep.	1961	1532-1538n	Rep.	1961
1348	Rep.	1964	1538h	Am.	1956
1352	Rep.	229	1538n	New	1952
1357	Rep.	1961	1538n	Am.	1954
1358	Rep.	1961	1577	Am.	1950
1358a	New	1964	1577	Am.	1954
1358-1, 1359	Rep.	1961	1577a	New	1952
1360	Am.	1960	1577b	New	1961
1360-1379	Rep.	1961	1580 note	Am.	1950
1380-1382	Rep.	1961	1580 note	Am.	1956
1383	Rep.	1961	1580 note	Am.	1958
1384-1395	Rep.	1961	1580 note	Am.	1960
1395a	New	1950	1581d	New	1950
1396-1398	Rep.	1961	1581d-1	New	1964
1396-1.01 to			1581e	New	1950
1396-11.01	New	1960	1605	Am.	1954
1396-2.01, subs. A(1)	New	1961	1605a		
1396-2.08, § E	New	1961	§ 2	Am.	1964
1396-9.03	Am.	1961	1605a-1	New	1958
1396-10.04, § G	New	1961	1605a-2	New	1961
1408	Rep.	1961	1605a-3	New	1961
1409	Rep.	1961	1606 note	New	1960
1410	Rep.	1961	1606b	New	1952
1411	Rep.	1961	1606c	New	1952
1412-1415	Rep.	1961	§ 1	Am.	1954
1433	Am.	1950	1630b	New	1954
1433a	New	1950	1630c	New	1958
1434a,			1641	Am.	1956
§ 3	Am.	1960	1641c	New	1953
§ 3	Am.	1961	1641d	New	1960
§ 5	Am.	1961	1641e	New	1961
§ 6	Am.	1961	1644a-1	New	1956
§ 8	Am.	1961	1644c-1	New	1961
§ 9	New	1961	1645	Am.	1950
1436a	New	1950	1645	Am.	1956
1436b	New	1952	1645a-1	Am.	1950

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1645a-5	Am.	1950	1970-110c	New	1958
1645a-8	New	1952	§ 1	Am.	1961
1645a-8	Am.	1954	§ 2A	Rep.	1961
1646b	New	1950	1970-110c.1	New	1964
1649	Am.	1956	1970-110d	New	1961
1650	Am.	1964	1970-113	Am.	1964
1651	Am.	1960	1970-114	Am.	1950
1659	Am.	1964	1970-115	Am.	1950
1659a	New	1960	1970-122	Am.	1950
1665	Am.	1956	1970-122	Am.	1952
1679	Am.	1960	1970-122	Am.	1956
1689	Am.	1964	1970-122	Am.	1964
1696a	New	1956	1970-138	Am.	1956
1702a-1	Am.	1958	1970-141.1	New	1956
1702b-6	Rep.	1950	1970-141a	New	1952
1702e	New	1950	1970-298b	New	1952
1702f	New	1950	1970-300a	New	1950
1702g	New	1950	1970-301a	New	1952
1702h	New	1952	1970-301b	New	1952
1702i	New	1954	1970-301c	New	1954
1728	Am.	1954	1970-301d	New	1958
1738	Am.	1964	1970-301e	New	1961
1817	Am.	1958	1970-301f	New	1964
1817	Am.	1964	1970-305,		
1817a	New	1958	§ 7	Am.	1956
1819	Am.	1958	§ 7	Am.	1960
1821	Am.	1954	1970-305a	New	1952
1827	Am.	1958	1970-305b	New	1954
1919	Am.	1952	1970-310 note	Am.	1958
1919	Am.	1956	1970-310 note	Am.	1960
1934a-10	Am.	1958	1970-311a	New	1956
1934a-12	New	1950	1970-318a	New	1952
1934a-13	New	1950	1970-324	Am.	1950
1934a-14	New	1950	1970-324	Am.	1964
1934a-15	New	1954	1970-324a	New	1964
§ 1(b)	Am.	1961	1970-325	New	1950
1934a-15(c)	Am.	1958	1970-330		
1934a-16	New	1960	§ 1	Am.	1964
1934a-17	New	1964	§ 2	Am.	1964
1934a-18	New	1964	1970-333a	New	1956
1969a-2	New	1952	1970-336	New	1950
§ 1	Am.	1961	1970-337	New	1950
1969a-3	New	1956	1970-338	New	1950
1970-31.1	New	1964	1970-338A	New	1960
1970-31a	New	1952	1970-330	New	1950
1970-31b	New	1964	§ 5	Am.	1954
1970-62a	New	1954	§ 5	Am.	1956
1970-62b	New	1961	§ 8	Am.	1956
§ 13	Am.	1961	§ 15	Am.	1956
1970-62c	New	1964	§ 17	Am.	1952
1970-77	Am.	1961	§ 17	Am.	1956
1970-77 note	New	1961	1970-339A	New	1956
1970-95	Am.	1961	§ 8	Am.	1956
1970-96	Am.	1961	§ 18	Am.	1956
1970-110a	New	1950	1970-340	New	1950
§ 9	Am.	1964	1970-340.1	New	1958
§ 11	Am.	1964	1970-341	New	1952
1970-110b	New	1952	1970-342	New	1954
§ 1	Am.	1961	1970-342	Am.	1961
§ 2	Am.	1961	1970-343	New	1956

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
1970-344	New	1958	2326j	Am.	1958
1970-345	New	1958	2326j-1	New	1958
§ 3	Am.	1960	2326j-1	Am.	1958
§ 11	Am.	1960	2326j-1	Am.	1964
§§ 14, 15	Am.	1961	2326j-2	New	1958
§ 15a	New	1960	2326j-3	New	1960
1970-346	New	1960	2326j-4	New	1960
1970-347	New	1960	2326j-5	New	1960
1970-348	New	1964	2326j-6	New	1960
1970a-1	New	1958	2326j-7	New	1960
1994	Am.	1961	2326j-7	Am.	1964
1995			2326j-8	New	1961
(9)	Am.	1954	2326j-9	New	1961
(9a)	New	1954	2326j-10	New	1961
(17a)	New	1956	2326j-11	New	1961
2031b	New	1960	2326j-12	New	1961
2039a	Am.	1950	2326j-13	New	1961
§ 1	Am.	1954	2326j-14	New	1961
§ 1	Am.	1960	2326j-17	New	1964
§ 2	Am.	1954	2326j-18	New	1964
§ 4	Am.	1954	2326j-19	New	1964
2039c	Am.	1950	2326j-20		
2075	Am.	1956	§§ 1, 2	New	1964
2093e	New	1950	2326j-21		
2094	Am.	1950	§§ 1, 2	New	1964
2094	Am.	1958	2326j-22	New	1964
2094	Am.	1964	2326j-23	New	1964
2095	Am.	1950	2326j-24	New	1964
2095	Am.	1960	2326j-25	New	1964
2095	Am.	1964	2326j-26	New	1964
2096	Am.	1960	2326j-27	New	1964
2097	Am.	1960	2326j-28	New	1964
2099	Am.	1960	2326j-29	New	1964
2101,			2326j-30	New	1964
§ 4	New	1961	2326j-31	New	1964
2102	Am.	1961	2326j-32	New	1964
2103b	New	1964	2326j-33	New	1964
2122	Am.	1954	2326j-34	New	1964
2133	Am.	1957	2326j-35	New	1964
2135	Am.	1956	2326j-36	New	1964
(4)	Am.	1954	2326j-37	New	1964
(17)	New	1958	2326k	New	1952
2168a	Am.	1950	2326k combined with 2326		1954
2194a	New	1964	2326l	New	1958
2226	Am.	1950	2326m	New	1960
2226	Am.	1954	2326n	New	1960
2268a	New	1950	§ 1	Am.	1964
2292a	New	1964	2327c	New	1950
2320b, § 4	Rep.	1952	2327d	New	1952
2320c	New	1950	2327d	Am.	1956
2323a	New	1952	2328a, § 3	Am.	1954
2324	Am.	1956	2328b-1	New	1952
2324	Am.	1961	§ 2-A	New	1954
2325	Rep.	1956	2328b-2	New	1952
2326	Am.	1950	2328b-3	New	1952
2326	Am.	1954	§ 8	Am.	1954
2326a	Am.	1958	§ 11	Am.	1954
2326i	New	1950	§ 12	Am.	1954
2326j	New	1950	2329	Rep.	1950

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2333-1	Am.	1950	2351g	New	1958
§ 4	Am.	1952	2351h	New	1958
§ 4	Am.	1954	2352d	Am.	1956
§ 13-B	New	1960	§ 1	Am.	1952
2338-2	New	1950	2352e	New	1961
§ 1	Am.	1960	2367a	New	1960
2338-2a	New	1958	§ 2	Am.	1960
2338-3	New	1950	2368a,		
§§ 2-4	Am.	1952	§ 2	Am.	1950
§§ 6-9	Am.	1952	§ 2a	New	1954
§§ 12-14	Am.	1952	§ 2b	New	1954
2338-3a	New	1958	§§ 5, 6	Am.	1952
2338-4	New	1952	2368a-1	New	1950
2338-5	New	1954	2368a-2	New	1954
2338-6	New	1954	2368a-3	New	1954
2338-7	New	1956	2368a-4	New	1956
2338-7a	New	1958	2368a-5	New	1958
2338-8	New	1958	2368a-6	New	1960
§ 2	Am.	1958	2368a-7	New	1961
§ 6	Am.	1958	2368a-8	New	1961
§ 9	Am.	1958	2368a-9	New	1964
2338-9	New	1958	2368f	New	1950
§ 21	New	1960	2370a	New	1950
§ 22	New	1960	2370a	Expired	1952
2338-9a	New	1960	2370b	New	1958
2338-10	New	1960	2370c	New	1964
§ 2	Am.	1964	2371	Am.	1952
2338-11	New	1960	2372a-1	New	1954
§ 16-A	New	1960	2372d-2	New	1950
2338-11a	New	1964	§ 1	Am.	1960
2338-12	New	1960	2372d-3	New	1952
2338-13	New	1960	2372f-1	New	1961
2338-14	New	1961	2372f-3	New	1964
2338-15			2372f-4	New	1964
§ 9	Am.	1964	2372h, § 6	Am.	1950
2338-16			2372h-1	New	1960
§ 2	Am.	1964	2372h-2	New	1960
§ 4	Am.	1964	2372i	New	1950
§ 7	Am.	1964	2372j	New	1950
2338-17	New	1964	2372k	New	1952
2350,			2372l	New	1954
§ 2a	New	1950	2372m	New	1956
§ 2b	New	1952	2372m	Am.	1956
2350(6)	Am.	1950	2372n	New	1956
2350(6)	Am.	1954	2372o	New	1960
2350m,			2372p	New	1961
§ 3a	New	1956	2372q	New	1961
§ 3b	New	1956	2372r	New	1964
2350n	New	1952	2428	Am.	1956
2350n	Rep.	1960	2460a	New	1954
2350o	New	1960	§ 2	Am.	1964
2351	Am.	1950	§ 5	Am.	1956
2351a-1	Am.	1961	§ 5	Am.	1964
2351a-4	New	1950	§ 5a	New	1956
2351a-5	New	1952	§ 5a	Am.	1964
2351a-6	New	1958	2461	Am.	1950
§ 12	Am.	1960	2462	Am.	1950
2351d	New	1950	2462	Am.	1964
2351e	New	1950	2464	Am.	1950
2351f	New	1952	2465	Am.	1950

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2465	Am.	1952	2607a		
2465	Am.	1954	§§ 1-3	New	1964
2465	Am.	1960	2613	Am.	1952
2465	Am.	1961	2613a-3	Am.	1954
2465	Am.	1964	§ 1	Am.	1958
2466	Am.	1964	2613a-7	New	1956
2468	Am.	1950	2613a-8	New	1958
2469	Am.	1950	2613c	New	1950
2469	Am.	1964	2614	Am.	1960
2470	Am.	1950	2615b, § 4A	Rep.	1960
2470	Am.	1961	2615d	New	1950
2470	Am.	1964	2615d	Am.	1958
2471	Am.	1950	2615e	New	1950
2471	Am.	1961	2615f	New	1955
2477	Am.	1950	2615g	New	1961
2477	Am.	1954	§ 7a	Am.	1964
2480	Am.	1964	§ 10	Am.	1964
2481	Am.	1958	§ 10a	Added	1964
2482	Am.	1958	§ 11	Am.	1964
2482	Am.	1961	2616a	New	1950
2482	Am.	1964	2618	Am.	1954
2483	Am.	1954	2618	Am.	1960
2483	Am.	1964	2619a	New	1964
2484	Am.	1950	2620	Am.	1950
2484	Am.	1954	2620a	New	1950
2484a	Am.	1964	2621a	New	1960
2484b	New	1950	2623c-1		
2484b	Am.	1964	to		
2484c	Am.	1964	2623c-7	New	1960
2525	Am.	1964	2623c-8	New	1961
2529	Am.	1956	2624	Am.	1958
2530a	New	1954	2624b	New	1958
2543c	Am.	1952	2624c	New	1958
2553	Am.	1950	2628a-10	New	1964
2558a, § 4a	Am.	1960	2628d	New	1956
2570-2583	Rep.	1956	2632c	Am.	1964
2583a	New	1952	2632d	New	1954
2583a	Rep.	1956	2632e	New	1958
2589d	New	1954	§ 1	Am.	1958
2589e	New	1954	2632f	New	1961
2589f	New	1960	2633a	New	1950
2592a	New	1950	2637j	New	1952
2597	Am.	1950	2643b-1	New	1952
2603a,			2643d	New	1950
§ 4	Am.	1958	§ 1	Am.	1956
§ 5	Am.	1958	2643d-1	New	1961
§ 8	Am.	1956	2643e	New	1950
2603b-2	New	1961	2643f	New	1952
2603b-3	New	1961	2643f-1	New	1956
2603f-1	New	1960	2643g	New	1954
2603f-2	New	1964	2643g	Am.	1956
2603g	New	1954	2643g-1	New	1961
2603h	New	1958	2647	Am.	1950
2603i	New	1960	2647c	Am.	1950
2603j	New	1961	2647d-2647g	New	1950
2605	Rep.	1952	2647d	Am.	1964
2606b	New	1950	2647d-1	New	1964
2606c	New	1960	2647h	New	1958
2606c-1	New	1964	2647i	New	1961

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2650	Rep.	1954	2688i	New	1964
2651a	New	1950	2688j	New	1964
2651a	Am.	1961	2688k	New	1964
2651b	New	1961	2696	Am.	1954
2652	Rep.	1954	2698	Am.	1954
2654.1	New	1960	2700	Am.	1950
2654.2	New	1964	2701	Am.	1954
2654a	Am.	1960	2741a	New	1960
§ 2	Am.	1964	2742f-2	New	1964
2654b-1,			2742o	New	1950
§ 1	Am.	1960	2744a-1	New	1950
§ 5	New	1954	2744e-4,		
2654c	Am.	1958	§ 5	Am.	1952
§ 1	Am.	1961	§ 7	Am.	1952
2654c(6)	Am.	1954	2744e-5	New	1950
2654d-1	New	1950	2744e-6	New	1950
2654d-1	Am.	1958	2745b	New	1950
2654e	Am.	1964	2745b	Am.	1960
2654f	New	1950	2745c	New	1958
2654-1 to 2654-7	New	1950	2745c	Am.	1960
2654-1,			§ 1	Am.	1964
§ 4	New	1952	§ 1a	Am.	1961
§ 4a	New	1954	§ 1a	Rep.	1964
2654-1a	New	1960	2746	Am.	1950
2654-1b	New	1960	2746a	Am.	1958
2654-3a	New	1952	2746c	New	1960
§ 1	Am.	1956	2750a-2	New	1954
§ 1	Am.	1964	2750a-2	Am.	1956
2654-3b	New	1961	2752a	New	1964
2654-3c	New	1964	2756c	New	1954
2663b-2	New	1956	§ 2a	New	1958
2668a	New	1961	§ 3	Am.	1964
2668b	New	1964	2756d	New	1964
2668c	New	1964	2757	Am.	1960
2668d	New	1964	2757	Am.	1961
2669	Am.	1961	2763	Am.	1952
2671	Am.	1956	2763a	Am.	1961
2673	Am.	1956	2766a	New	1956
2673	Am.	1961	2766b	New	1961
2673a-2673i	New	1950	2766c	New	1964
2675-1,			2767	Am.	1956
§ 3	New	1961	2767h	New	1964
2675-1 note	New	1950	2767-1	New	1956
2675c-1	New	1956	2773	Am.	1954
2675c-1	Rep.	1960	2774b	New	1952
2675c-2	New	1960	2774c	New	1954
2675k	New	1964	2774d	New	1958
2676	Am.	1958	2775a	New	1954
2676a	New	1964	2775a-1	New	1956
2681a	New	1964	2775a-1	Am.	1964
2688c	New	1950	2775a-2	New	1960
2688c	Am.	1954	2775a-3	New	1964
2688c	Am.	1958	2775a-4	New	1964
2688c	Am.	1961	2775b	New	1960
§ 2	Am.	1952	2775c	New	1960
2688c	Rep.	1961	2775d	New	1961
2688d	New	1961	2777d	Am.	1950
2688e	New	1961	§ 4a	New	1960
2688f,			2777d-1	New	1960
§ 1-3	New	1961	2777d-2	New	1961

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
2777f	New	1961	2803d	New	1960
2779b	New	1954	2804a	New	1954
§ 1	Am.	1956	2805a	New	1950
2783c,			2806d	New	1950
§ 1	Am.	1952	2806d-1	New	1960
§ 2	Am.	1952	2806e	New	1950
§§ 4-6	Am.	1952	2806e	Am.	1956
§ 8	Am.	1952	2815-2	New	1950
2783d,			2815-2	Rep.	1952
§ 5	Am.	1954	2815-3	New	1961
§ 6	Am.	1950	§ 1a	Am.	1961
§ 6a	New	1961	2815-4	New	1964
2783e	New	1950	2815a-1	New	1964
2783f	New	1954	2815g-1a	Am.	1952
2783g	New	1961	2815g-1b	New	1958
2784e-1	New	1956	2815g-39		
2784e-1	Am.	1958	to		
2784e-2	New	1960	2815g-43	New	1950
2784e-3	New	1960	2815g-44		
2784e-3	Am.	1961	to		
2784e-4	New	1960	2815g-46	New	1952
2784e-5	New	1964	2815g-47	New	1954
2784e-6	New	1964	2815g-48	New	1956
2784f	New	1950	2815g-49	New	1956
2784g	New	1954	2815g-50	New	1956
§ 4	Rep.	1960	2815g-51	New	1958
2784g-1	New	1964	2815g-52	New	1960
2784h	New	1964	2815g-53	New	1961
2785	Am.	1954	2815g-54	New	1961
2786	Am.	1958	2815g-55	New	1961
2786	Am.	1964	2815g-57	New	1964
2786c	New	1952	2815h,		
2786d	New	1954	§ 7a(1)	New	1952
2786d	Am.	1958	§ 7b	Am.	1950
2786e	New	1954	§ 17	Am.	1958
§ 1	Am.	1964	§ 17	Am.	1960
2786f	New	1954	§ 17(a)	Am.	1950
2788a	New	1950	§ 17(a)	Am.	1958
§ 1	Am.	1958	§ 18	Am.	1960
2789	Am.	1950	§ 19	Am.	1960
2789d	New	1952	§ 21	Am.	1960
2789e	New	1958	§ 21a	New	1961
2790a-6	New	1950	2815h-6	New	1950
2790d-8	New	1950	2815h-7	New	1952
2790d-9	New	1960	2815h-8	New	1958
2790e, § 11	Am.	1956	2815h-9	New	1960
2790l	New	1950	2815h-10	New	1961
2790m	New	1950	2815j-2	New	1950
2790n	New	1960	§ 4a	Rcp.	1964
2802-1	New	1956	2815k,		
2802e-1	Am.	1950	§ 6	Am.	1950
2802e-1	Am.	1952	§ 8(1)	New	1950
2802e-1	Am.	1956	2815k-1	Am.	1952
2802f-3	New	1954	2815k-2	New	1960
2802i-28	New	1950	2815k-3	New	1961
2802i-29	New	1952	2815m-1	New	1950
2802i-30	New	1958	2815n	New	1950
2802i-31	New	1960	§ 1(a)	New	1961
2802j	New	1952	§ 2a	New	1958
2803c	New	1950	§ 2(a)	New	1961

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2815n	New	1950	2891b	New	1950
§ 3	Am.	1961	§ 4	Am.	1964
§ 5	Am.	1961	§ 13(b)	Am.	1964
§ 7	Am.	1961	2892	Am.	1964
2815o-2815s	New	1950	2892a	Rep.	1964
2815o-1	New	1952	2892b	Rep.	1964
2815o-1a	New	1960	2898-1	Rep.	1952
2815o-1b	New	1964	2900a	New	1958
2815p-1	New	1964	2901a	New	1958
2815q-1	New	1964	2906	Am.	1958
2815r			2906-1	New	1958
§ 1	Am.	1964	2906-2	New	1958
§ 2	Am.	1964	2906-3	New	1958
§ 3	Am.	1952	2908b	New	1950
§ 3	Am.	1964	§§ 2, 3	Am.	1952
§ 4	Am.	1952	2909b	New	1956
§ 5	Am.	1964	2909c	New	1956
§ 6	Am.	1964	§ 8(a)	New	1960
2815r-1	New	1956	2909d	New	1958
§ 1	Am.	1961	2911	Am.	1950
§ 5a	New	1958	2919	Am.	1961
§ 6a	New	1958	2919c	New	1950
2815s-1	New	1956	2919d	New	1952
2815t	New	1952	§ 2	Am.	1960
§ 15a	New	1961	§ 5a	New	1956
2815t-1	New	1960	2919e	New	1954
2816	Am.	1954	2919e-1	New	1956
2816a	Am.	1954	2919e-2	New	1956
2817	Am.	1954	§ 18	New	1960
2817a	Am.	1954	2919f	New	1956
2819	Am.	1954	2919g	New	1958
2820	Am.	1954	2919g-1	New	1964
2821	Am.	1950	2919h	New	1960
2821	Am.	1954	2922a	New	1950
2822a	Am.	1954	2922f	Am.	1950
2827b	New	1960	2922f	Am.	1958
2827c	New	1961	2922l		
2832	Am.	1960	(3)	New	1950
2833	Am.	1953	(3.1)	New	1964
2835c	New	1954	(4)	New	1950
2843	Am.	1950	(5)	New	1952
2843	Am.	1960	(6)	New	1952
2843	Am.	1961	(6), § 1	Am.	1956
2844	Rep.	1950	(7)	New	1956
2844a	Rep.	1950	(8)	New	1956
2851	Am.	1954	(8)	Am.	1958
2859	Rep.	1954	2922-1	Am.	1950
2874	Am.	1954	2922-1	Am.	1956
2875	Am.	1956	§ 1(18)	Am.	1961
2875	Am.	1958	§ 1(19)	Am.	1952
2876c	Am.	1954	§ 4(4)	Am.	1961
2876k	New	1958	§ 4(5)	Am.	1958
2876k	Am.	1960	§ 5	Am.	1952
2876l	New	1964	§ 5(1)	Am.	1954
2877	Am.	1954	§ 5(2)	Am.	1954
2880a	Rep.	1956	§ 5(4)	Am.	1954
2882	Rep.	1956	§ 5(7)	Am.	1954
2883	Rep.	1956	§ 6(2b)	Am.	1960
2890	Rep.	1956	§ 7(4)	Am.	1961
2891	Rep.	1956	§ 8	Am.	1954

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2922-1	Am.	1956	2977a	Inoperative	1950
§ 10(5b)	Am.	1960	2978	Rep.	1952
2922-1a	New	1954	2978a	Am.	1950
2922-1b	New	1960	2978a	Rep.	1952
2922-1b	Am.	1961	2978b	New	1950
2922-1c	New	1960	2978b	Rep.	1952
2922-1d	New	1964	2980	Am.	1950
2922-1e	New	1964	2980-2997c	Rep.	1952
2922-1f	New	1964	2997d	New	1950
2922-2 to 2922-8	Rep.	1952	2997d	Rep.	1952
2922-11			2998-3007	Rep.	1958
to			3008	Am.	1950
2922-22	New	1950	3008-3011	Rep.	1952
2922-13,			3012	Am.	1950
§ 1(4)	Am.	1952	3012-3026	Rep.	1952
§ 1(4)	Am.	1954	3026a	Am.	1950
§ 1(4) a	Am.	1958	3026a	Am.	1952
§ 1(4) a	Am.	1964	3027	Rep.	1952
2922-13a	New	1960	3028	Am.	1950
2922-13b	New	1961	3028	Rep.	1952
2922-13c	New	1961	3029-3040	Rep.	1952
2922-14	Am.	1958	3040a	New	1950
§ 1	Am.	1961	3040a-3083	Rep.	1952
§ 1-a	New	1956	3084	Am.	1950
§ 1-b	New	1956	3084-3105	Rep.	1952
§ 1-c	New	1956	3106	Am.	1950
§ 2	Am.	1961	3106-3108	Rep.	1952
2922-14b	New	1964	3109	Am.	1950
2922-15,			3109-3116f	Rep.	1952
§ 1	Am.	1954	3116g	New	1952
§ 1	Am.	1961	3117-3121	Rep.	1952
§ 2	Am.	1952	3122-3124	Am.	1950
§ 2	Am.	1958	3122-3127	Rep.	1952
§ 2(2) (a) (b)	Am.	1961	3128	Am.	1950
2922-16,			3128-3153	Rep.	1952
§ 1	Am.	1961	3153a	New	1950
§ 2	Am.	1956	3153a-3154	Rep.	1952
§ 2	Am.	1961	3154(a)	New	1952
§ 3	Am.	1954	3155-3158	Rep.	1952
§ 4	Am.	1956	3158a	New	1952
§ 4	Am.	1961	3158a	Am.	1960
§ 4A	New	1961	3159-3173	Rep.	1952
§ 5	Am.	1956	3174a	New	1950
§ 5	Am.	1961	3174a note	New	1961
§ 5	Am.	1964	3174b	New	1950
2922-16a	New	1958	§ 8	Am.	1960
2922-16b	New	1961	3174b-1	New	1956
2922-16c	New	1961	3174b-1	Rep.	1958
2922-16d	New	1961	3174b-2	New	1956
2922-21a	New	1961	3174b-3	New	1956
2922-21b	New	1961	3174b-4	New	1958
2922-23	New	1952	§ 8	Am.	1961
2922-24	New	1958	§ 8	Am.	1964
2923-2942a	Rep.	1952	3174b-5	New	1961
2943	Am.	1952	§ 1	Am.	1964
2944-2956	Rep.	1952	3174b-6	New	1961
2956a	New	1950	3174c	New	1960
2956a	Rep.	1952	3177	Am.	1952
2957-2977	Rep.	1952	3179a	New	1960

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3183a	Am.	1950	3254c-1	New	1952
§ 1	Am.	1964	3254d,		
3183b-1	New	1960	§ 16	Am.	1950
3183c	New	1952	§ 17	New	1950
3183d	New	1954	3254d	Rep.	1960
3183d	Rep.	1960	3254d-1	New	1952
3183e	New	1956	3254d-1	Rep.	1960
3183f	New	1961	3255b	New	1952
3186	Rep.	1958	3263a	Rep.	1954
3186a	Rep.	1958	3263c	New	1950
3193	Rep.	1958	3263d	New	1961
3193-1	New	1956	3263e	New	1964
3193-1	Rep.	1958	3264,		
3194-3196	Rep.	1958	subd. G	Am.	1961
3196b	New	1950	3266(3)	Am.	1956
3196c	New	1952	3266(3)	Am.	1960
3196c-1	New	1958	(6)	Am.	1961
3196d	New	1952	(7)	Am.	1961
3196d	Rep.	1958	(8)	New	1961
3201a	New	1954	3271a,		
3201b	New	1954	§ 12a	New	1961
3201b	Rep.	1964	3272a	New	1961
3201b-1	New	1956	3273	Am.	1961
3201b-1	Rep.	1964	3284	Am.	1961
3201b-2	New	1964	3290-3703	Rep.	1956
3202-a	Am.	1954	3582a	New	1952
3202-c	New	1950	3597a	New	1950
3205a	New	1950	3726a	New	1958
3206	Rep.	1954	3731a	New	1952
3207a	Am.	1950	3731a	Am.	1961
3207a	Am.	1958	§ 7	Am.	1954
3207a, § 1	Am.	1958	3731b	New	1958
3207b	New	1950	3731c	New	1960
3220-1	Rep.	1954	3737d	New	1950
3221c			3737d	Rep.	1956
§§ 1, 2	New	1964	3737d-1	New	1956
3222a	New	1958	§ 1	Am.	1960
3222b	New	1961	3737e	New	1952
§ 1	Am.	1964	3867-3871	Rep.	1956
§ 1a	New	1964	3871a	New	1956
3223-3232	Rep.	1950	3871b	New	1956
3232a	New	1950	§ 14	Am.	1964
3232a	Rep.	1958	3871c	New	1958
3232b	New	1958	3871d	New	1961
3232c	New	1961	3871e	New	1964
3232c	Am.	1964	3872	Am.	1954
3233-3238	Rep.	1956	3875	Am.	1954
3238b	New	1952	3881a-3881d	New	1954
3238b	Rep.	1960	3881e	New	1958
3238c	New	1956	3883f-1	New	1961
3238c	Rep.	1960	3883h	New	1956
3239	Rep.	1960	3883i	New	1956
3240-3246	Rep.	1960	3883i	Am.	1958
3241	Am.	1954	§ 1(a)	Am.	1961
3248-3251a	Rep.	1960	§ 4(a)	New	1961
3252-3254	Rep.	1954	§ 5	Am.	1960
3254a	Rep.	1960	§ 7a	New	1960
3254a-1	Am.	1950	§ 8	Am.	1960
3254a-1	Rep.	1960	§ 8(b)	New	1961
3254c	Am.	1950			

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3886f	Am.	1950	3920	Rep.	1952
§ 1	Am.	1956	3921	Am.	1952
§ 3a	New	1956	3921a	New	1952
3886g	New	1952	3924	Am.	1950
3886h	New	1954	3927	Am.	1958
3886h	Am.	1958	3927a	New	1958
3886h	Am.	1960	3930	Am.	1958
3886h	Am.	1964	3930a	New	1961
3886i	New	1961	3930a note	New	1961
3887b	New	1954	3936f-1	New	1961
3888	Am.	1952	3936g	New	1950
3888	Am.	1954	3936g-1	New	1952
3888b	New	1954	3936h	New	1950
3899b			3936h	Am.	1952
§ 1a	New	1964	3936i	New	1952
§ 3	Am.	1954	3936j	New	1954
§ 3	Am.	1964	3936k	New	1954
3902f-1	New	1954	3937	Am.	1950
3902f-2	New	1961	3937	Am.	1952
3902h-2	New	1956	3939	Am.	1950
3902i	New	1950	3939	Am.	1952
3902j	New	1952	3943d	New	1952
3902j	Am.	1958	3943e	New	1952
3903e	New	1950	3945	Am.	1960
3912e,			3946a	New	1964
§ 1	Am.	1960	3959	Am.	1950
§ 3	Am.	1960	3959a	New	1950
§ 13	Am.	1950	3972a	Inoperative	1952
§ 13(b)	Am.	1964	3975a	New	1958
§ 15	Am.	1950	4000	Am.	1950
§ 15(a)	Rep.	1964	4001	Am.	1961
§ 17	Am.	1950	4025a	New	1952
§ 19(q)	Am.	1956	4025b	New	1958
3912e-4b	New	1950	4026b	New	1956
3912e-4c	New	1952	4032	Rep.	1952
3912e-4d	New	1954	4032a	Rep.	1950
3912e-4d	Am.	1956	4032b	New	1950
3912e-5a	New	1956	4032b-1	New	1958
3912e-5a	Rep.	1958	4032c	New	1956
3912e-5b	New	1956	4050c	New	1950
3912e-5c	New	1958	4050c-1	New	1958
3912e-5d	New	1961	4050d	New	1952
3912e-14			4053	Am.	1964
to			4075a	New	1950
3912e-16	New	1950	4075b	New	1960
3912e-17	New	1961	4075b	Am.	1964
3912e-18	New	1961	§ 11A	Added	1964
3912e-19	New	1961	4102-4123a	Rep.	1956
3912e-20	New	1964	4123a-1	Am.	1950
3912e-21	New	1964	4123a-1 to 4167	Rep.	1956
3912f-4	New	1950	4168	Am.	1950
3912g	New	1950	4168-4191	Rep.	1956
3912h	New	1950	4192	Am.	1952
3912i	New	1958	4192	Rep.	1956
3912j	New	1964	4192a	Rep.	1950
3913	Am.	1961	4192b	New	1950
3914	Am.	1961	4192b-4284	Rep.	1956
3918	Am.	1956	4285	Am.	1954
3918	Am.	1961	4285-4329	Rep.	1956
3919	Rep.	1961	4331, § 8	Rep.	1952

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4335	Am.	1952	4445,		
4336	Am.	1952	§ 3	Am.	1950
4341a	New	1952	§ 4	Am.	1950
4344b	New	1960	4445a	New	1950
4346	Am.	1954	4447a	New	1950
4346a	New	1960	4447a	Am.	1960
4348a	New	1960	4447b	New	1960
4353	Am.	1952	4447c	New	1960
4357	Am.	1954	4447d	New	1964
4357	Am.	1958	4469	Am.	1961
4357	Am.	1960	4470-4473	Rep.	1961
4358	Am.	1954	4473	Am.	1952
4359	Am.	1954	4476-3,		
4365	Am.	1954	§ 3(a, b, c)	Am.	1958
4379b, § 3	Am.	1954	§ 8	Am.	1958
4382	Am.	1954	§ 14a	New	1956
4382a	New	1954	4476-4	New	1960
4386c	New	1954	4476-5	New	1961
§ 1	Am.	1956	§ 22A	New	1964
4386d	New	1954	§ 23	Added	1964
4393b	New	1954	4476a,		
4405	Am.	1964	§ 1	Am.	1950
4412	Am.	1964	§ 2	Am.	1950
4412a	New	1960	§ 2	Am.	1956
4413			§ 2	Am.	1960
(4a)	New	1958	§ 2(e)	Rep.	1958
(18a)	New	1958	§ 4	Am.	1950
(29a)	New	1950	§ 4(c)	Am.	1956
(29b)	New	1958	§ 5	Am.	1950
(31), § 1	Am.	1952	§ 5	Am.	1960
(32)	New	1954	§ 6	Am.	1961
(33)	New	1958	§ 7	Am.	1956
4413a	New	1964	§ 9	Am.	1950
4413b-1	New	1950	4477,		
4413b-1	Am.	1964	rule 3	Am.	1960
4413c-1	New	1961	rule 4	Am.	1960
4417a	Am.	1960	rule 14	Am.	1960
4418b	Am.	1958	rule 20	Am.	1960
4418b-1	New	1956	rule 23	Am.	1960
4419c,			rule 25	Am.	1960
§ 1	Am.	1961	rule 34a	Am.	1952
§ 3	Am.	1961	rule 35a	Am.	1950
4436	Am.	1960	rule 36a	Am.	1952
4436a-1, § 1	Am.	1958	rule 38a	Am.	1952
4436a-4	New	1960	rule 39a	Am.	1952
4437a,			rule 39a	Am.	1958
§ 3	Am.	1952	rule 40a	Am.	1952
§ 6A(e)	Am.	1956	rule 43a	Am.	1952
4437c-1	New	1954	rule 47a	Am.	1952
4437e	New	1958	rule 47a	Am.	1958
§ 8a	Added	1964	rule 47b	New	1960
4437f	New	1960	rule 51a	Am.	1952
4440	Rep.	1960	rule 51a	Am.	1958
4442	Rep.	1960	rule 51a	Am.	1960
4442b	Rep.	1954	rule 53a	Am.	1952
4442c	New	1954	rule 54a	Am.	1950
§ 2(a)	Am.	1960	rule 54a	Am.	1952
4444	Rep.	1961	rule 54a	Am.	1958
			rule 54a	Am.	1961
			rules 77-86	Rep.	1952

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4477a	New	1952	4494q-21	New	1964
4477-1,			4494r	New	1964
§ 5(c)	Am.	1952	4498a	New	1954
§ 15(a)	Am.	1961	4499	Am.	1954
4477-2	New	1950	4499a	New	1954
§ 1	Am.	1961	4500	Am.	1954
§ 2	Am.	1961	4501	Am.	1952
§ 4	Am.	1961	4501	Am.	1954
§ 6A	New	1956	4502	Am.	1954
4477-11	New	1960	4502	Am.	1964
4478a	New	1954	4504	Am.	1950
4479	Am.	1961	4506	Am.	1954
4492	Am.	1954	4507	Rep.	1954
4494h	Am.	1950	4508	Rep.	1954
4494k	New	1950	4509	Am.	1954
4494l	New	1950	4510	Am.	1950
§ 4	Am.	1956	4510	Am.	1954
4494m	New	1950	4512b	New	1950
4494n	New	1954	§§ 4a, 4b	New	1958
4494n	Am.	1956	§§ 8a, 8b	New	1958
§ 5a	New	1960	§ 11	Am.	1958
§ 5b	Added	1964	§ 14	Am.	1958
4494n-1	New	1960	§ 14a	New	1958
4494o	New	1958	4518	Am.	1960
4494p	New	1958	4518a	Rep.	1960
4494q	New	1960	4521	Am.	1961
§ 1	Am.	1961	4526	Am.	1950
§ 2	Am.	1961	4528b	New	1950
4494q-1	New	1960	4528c	New	1952
4494q-2	New	1960	§ 3a	New	1958
4494q-3	New	1960	§ 4(c)	Am.	1958
§ 1	Am.		§ 4(d)	Am.	1964
§ 2	Am.	1961	§ 4½	Am.	1958
§ 3	Am.	1961	§ 5	Am.	1958
§ 4	Am.	1961	§ 8	Am.	1958
§ 5(d)	Am.	1961	§ 9	Am.	1956
4494q-4	New	1961	§ 9	Am.	1958
§ 1	Am.	1964	§ 10	Am.	1958
4494q-5	New	1961	§ 13	Am.	1956
§§ 3-6	Am.	1964	4542a	Am.	1954
4494q-6	New	1961	§ 3	Am.	1960
4494q-6a	New	1964	§ 4	Am.	1952
4494q-7	New	1961	§ 7	Am.	1958
4494q-8	New	1964	§ 8	Am.	1952
4494q-9	New	1964	§ 8	Am.	1960
§ 2	Am.	1964	§ 9	Am.	1952
§ 12	Am.	1964	§ 9	Am.	1960
§ 13	Am.	1964	§ 11	Am.	1960
4494q-10	New	1964	§ 12	Am.	1958
4494q-11	New	1964	§ 12	Am.	1960
4494q-12	New	1964	§ 13	Am.	1958
4494q-13	New	1964	§ 14	Am.	1952
4494q-14	New	1964	§ 14	Am.	1960
4494q-15	New	1964	§ 16	Am.	1960
4494q-16	New	1964	§ 17	Am.	1952
4494q-17	New	1964	§ 17	Am.	1958
4494q-18	New	1964	§ 17	Am.	1960
4494q-19	New	1964	§ 17(d) (4, 5)	Added	1964
4494q-20	New	1964	§ 17(f)	Am.	1964

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Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
4542a,			4590d	Rep.	1961
§ 19	Am.	1952	§ 10	Am.	1954
§ 20	Am.	1958	§ 11(1)	Am.	1952
4542b	New	1958	§ 19a	New	1954
4544	Am.	1961	4590e	New	1952
4549	Am.	1952	§ 3(6)	Am.	1964
4550a,			4590f	New	1961
par. 1	Am.	1961	4590g	New	1964
pars. 3, 4	Am.	1961	4591	Am.	1952
4551	Am.	1958	4591	Am.	1958
4551a	Am.	1952	4591d,		
4551a	Am.	1954	§ 1a	New	1956
(5)	New	1956	§ 1b	New	1956
(6)	New	1960	§ 1c	New	1956
(7)	New	1960	§ 1c	Am.	1958
4551b	Am.	1952	4591e	New	1956
4551b	Am.	1954	4594	Am.	1956
4551b	Am.	1958	4597-4601	Rep.	1954
(8)	New	1961	4602	Am.	1958
4551c	Am.	1954	4605	Am.	1960
4551d	New	1952	4612a	New	1950
4551e	New	1952	4614	Am.	1958
§ 1	Am.	1958	4614	Am.	1964
§ 3	Am.	1958	(d)	Am.	1961
§ 5	Am.	1961	4616	Am.	1958
§ 10(g)	Am.	1958	4617	Am.	1958
§ 10(h)	Am.	1958	4618	Am.	1964
§ 15	Am.	1958	4619, § 6	New	1960
4551f	New	1960	4621	Am.	1964
4551g	New	1960	4623	Am.	1958
4561	Am.	1952	4623	Rep.	1964
4562	Am.	1952	4624	Am.	1964
4565	Am.	1952	4624a	New	1950
4565-a	Am.	1952	4626	Am.	1964
4565d(1)	Am.	1958	4629	Am.	1954
4565g	Am.	1958	4631	Am.	1958
4567	Am.	1952	4632	Am.	1956
4569	Am.	1952	4639a	Am.	1954
4570	Am.	1952	§ 1	Am.	1961
4570	Am.	1964	4639a-1	New	1961
4571	Am.	1952	4639b	New	1956
4572	Rep.	1952	4639c	New	1960
4575	Am.	1952	4646b	Am.	1964
4576a-4581	Rep.	1954	4668	Rep.	1964
4582a	Rep.	1954	4679-4698a	Rep.	1952
4582b	New	1954	4682b, § 1A	New	1950
4582b	Am.	1964	4698b	New	1950
4584	Am.	1954	4698b-4704	Rep.	1952
4584	Am.	1961	4705	Am.	1950
4590-1	New	1960	4705-4724	Rep.	1952
§ 2	Am.	1961	4725	Am.	1950
4590a	Rep.	1952	4725-4764b	Rep.	1952
4590c	New	1950	4764c	New	1950
§ 4	Am.	1956	4764c, 4765	Rep.	1952
§ 4	Am.	1960	4766	Am.	1950
§ 5	Am.	1956	4766-4768	Rep.	1952
§ 5	Am.	1960	4769	Am.	1950
§ 7	Am.	1952	4769	Am.	1952
§ 8	Am.	1956	4769½	New	1952
4590d	New	1950	4769a	New	1952

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4770 to 4860a-19	Rep.	1952	5139MM	New	1961
4860a-20	Am.	1950	5139NN	New	1961
4860a-20 to 4928	Rep.	1952	5139OO		
4929	Am.	1950	§ 2A	New	1964
4929	Rep.	1952	5139PP	New	1964
4929a	New	1950	5142	Am.	1950
4929a to 4931	Rep.	1952	5142a,		
4932	Am.	1950	§ 1	Am.	1950
4932-5012	Rep.	1952	§§ 3-5	Am.	1950
5012a	Am.	1950	§ 6	Am.	1958
5012a-5068b	Rep.	1950	5142a-1	New	1956
§ 7	Am.	1950	5142a-2	New	1958
5068c, 5068d	Rep.	1952	5142b,		
5068e	New	1950	§ 1	Am.	1950
5068e to 5068-7	Rep.	1952	§ 1	Am.	1956
5069	Am.	1964	§ 5	Am.	1950
5071	Am.	1964	§ 7	Am.	1950
5073	Am.	1964	§ 15	Am.	1950
5074a	New	1952	§ 15	Am.	1956
5115	Am.	1958	§ 17	Am.	1950
5115a	New	1961	5142c	New	1950
5118a	New	1956	§ 5	Am.	1956
5118a	Am.	1964	5142c-1	New	1950
5138b	New	1961	5142c-2	New	1956
5139	Am.	1950	5142c-3	New	1964
5139	Am.	1954	5142d	New	1950
5139A	New	1952	5143c	New	1950
5139A	Am.	1958	§ 4	Am.	1956
5139B	New	1952	§ 5	Am.	1956
5139D	New	1950	5143d	New	1958
5139(E)	New	1950	5154g	New	1956
5139(E)	Am.	1952	5155	Am.	1958
5139E-1	New	1961	5159c	New	1956
5139F	New	1952	5160	Am.	1960
5139F	Am.	1958	5161-5164	Rep.	1960
5139G	New	1952	5165a	New	1954
5139G	Am.	1956	§§ 1, 2	Am.	1964
5139H	New	1952	5167a	New	1964
5139H-1	New	1956	5172a,		
5139H-2	New	1956	§ 5	Am.	1954
5139H-3	New	1958	§ 5	Am.	1961
5139H-4	New	1960	§ 5a	Am.	1961
5139H-5	New	1961	5181	Rep.	1964
5139I	New	1954	5183	Am.	1960
5139J to 5139O	New	1956	5190½	New	1958
5139J,			5190½	Am.	1960
§ 3	Am.	1960	5221a-4	Rep.	1950
§ 3a	New	1960	5221a-5	New	1950
§ 3b	New	1960	§ 9	Am.	1961
5139P-5139X	New	1958	5221a-6	New	1950
5139Y	New	1960	§ 8	Am.	1964
5139Z	New	1960	§ 17	Am.	1961
5139AA to 5139FF	New	1960	5221b-1	Am.	1950
5139GG	New	1961	5221b-1(b)	Am.	1956
5139HH	New	1961	5221b-1(b)	Am.	1961
5139II	New	1961	5221b-1(c)	Am.	1958
5139JJ	New	1961	5221b-1(d)	Am.	1956
5139KK	New	1961	5221b-1(d)	Am.	1958
5139LL	New	1961	5221b-1(d)	Am.	1961

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5221b-1(e)	New	1961	5221c,		
5221b-1a	Rep.	1956	§ 4a	New	1964
5221b-2	Am.	1950	§ 5	Am.	1952
5221b-2	Am.	1956	§ 5	Am.	1958
(f)	New	1961	§ 12	Am.	1952
5221b-3	Am.	1950	§ 12	Am.	1958
5221b-3	Am.	1956	§ 12	Am.	1961
(a, b)	Am.	1958	§ 17	Am.	1961
(a-c)	Am.	1961	§ 18	Rep.	1961
(g)	Added	1964	5221d	New	1956
5221b-4	Am.	1950	5221e	New	1958
5221b-4	Am.	1956	5244a-3	New	1961
(b)	Am.	1958	5248	Am.	1950
(h)	Am.	1958	5248c-1	New	1961
5221b-5	Am.	1950	5248c-2	New	1961
5221b-5	Am.	1956	5248d-1	New	1961
(c)	Am.	1958	5248g	New	1950
(c) (2A)	Am.	1961	§ 1	Am.	1956
(c) (6)	Am.	1961	5248h, 5248i	New	1950
(c) (7)	Am.	1954	5254a,		
(d)	Am.	1958	§ 1	Am.	1958
5221b-6	Am.	1950	§ 1	Am.	1960
(c)	Am.	1956	§ 2	Am.	1958
(c) (1)	Am.	1958	5282a	New	1956
5221b-7(c)	Am.	1958	5320a	New	1952
5221b-8(c)	Am.	1956	5326	Am.	1952
5221b-8(f)	Rep.	1958	5326h	New	1950
5221b-9			5326i	New	1950
(a)	Am.	1956	5326j	New	1952
(e)	Am.	1956	5330a, § 2	Am.	1952
(g)	Am.	1958	5337-1	New	1958
(h)	Am.	1956	5337-2	New	1960
5221b-9b	Am.	1956	5344c	Am.	1964
5221b-11	Am.	1950	5366	Am.	1956
5221b-12			5368b	Rep.	1950
(a)	Am.	1956	5370	Am.	1950
(b)	Am.	1956	5371	Am.	1958
(d)	Am.	1956	5382a	Rep.	1954
(e)	Am.	1958	5382b	New	1950
(j)	Am.	1956	§ 7	Am.	1952
5221b-13(a)	Am.	1956	5382b-1	New	1954
5221b-14			5382c	New	1952
(a)	Am.	1956	5382d	New	1952
(a)	Am.	1958	§ 1	Am.	1964
(a)	Am.	1961	§ 13a	New	1956
(e)	Am.	1956	5382d-1	New	1956
5221b-17	Am.	1950	5382e	New	1954
5221b-17	Am.	1956	5399a-5399f	Rep.	1954
5221b-17	Am.	1958	5414a-1	New	1956
(g) (5)	Am.	1961	5415c	New	1958
g(E.F.)	Am.	1961	5415d	New	1960
(k)	Am.	1961	§ 7	Am.	1964
5221b-18	Rep.	1958	5415e	New	1961
5221b-22a	Am.	1950	5421b-1	New	1956
5221b-22aa	New	1958	5421c,		
5221c,			§ 8	Am.	1954
§ 1	Am.	1960	§ 8-A(5)	Am.	1964
§ 2	Am.	1960	§ 8	Am.	1958
§ 3	Am.	1956	5421c-3	Am.	1964
§ 3	Am.	1960			

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5421c-7	New	1956	5429	Am.	1961
§ 1	Am.	1958	5429a	Rep.	1961
§ 1	Am.	1964	5429b	New	1950
§ 2	Am.	1958	5429b-1	New	1964
§ 2	Am.	1964	5429c	New	1950
§ 3	Am.	1958	5429d	New	1952
§§ 7, 8	New	1958	5429e	New	1954
5421c-8	New	1958	5429e	Am.	1961
5421c-9	New	1961	5429f	New	1961
5421h-2	New	1961	5433a	New	1954
5421i	Am.	1952	5434	Am.	1954
5421j-1	New	1958	5435	Am.	1961
5421j-2	New	1961	5438d	New	1956
5421k-2	New	1958	5440	Rep.	1961
5421k-3	New	1961	5441a	Am.	1964
5421m	New	1950	5441b	New	1960
§ 2	Am.	1958	5442a	New	1964
§§ 2(A) to 2(C)	New	1958	5452	Am.	1952
§ 3	Am.	1952	5452	Am.	1961
§ 3	Am.	1958	5453	Am.	1961
§ 6	Am.	1958	5454	Am.	1961
§ 9	Am.	1952	5455	Am.	1961
§ 9(a)	Am.	1958	5456	Am.	1961
§ 10	Am.	1952	5457	Rep.	1961
§ 10	Am.	1958	5461	Rep.	1961
§ 10(A)	New	1956	5462	Rep.	1961
§ 11	Am.	1952	5463	Am.	1961
§ 11	Am.	1956	5465	Rep.	1961
§ 12	Am.	1958	5467	Am.	1961
§ 13	Am.	1958	5468	Am.	1961
§ 14	Am.	1952	5469	Am.	1961
§ 14	Am.	1954	5472a	Am.	1960
§ 15	Am.	1956	5472d	New	1961
§ 16	Am.	1952	5473	Am.	1958
§ 16	Am.	1956	5476	Am.	1954
§ 16(A)	New	1956	5476	Am.	1958
§ 16(B)	Am.	1964	5476a	New	1954
§ 17	Am.	1952	5476a	Am.	1958
§ 17	Am.	1956	5476b	New	1954
§ 17	Am.	1958	5476b	Am.	1958
§ 17	Am.	1961	5476b	Am.	1958
§ 17	Am.	1961	5476c	New	1958
§ 18	Am.	1952	5476d	New	1958
§ 18	Am.	1956	5499a	New	1954
§ 19	Am.	1956	5499a-51	New	1960
§ 19	Am.	1958	5500	Am.	1950
§ 19(A)	New	1956	5506a	Am.	1954
§ 19(A)	Am.	1958	5506c,		
§ 19(A)	Am.	1961	§ 2	Am.	1956
§ 21	Am.	1956	§ 7	Am.	1956
§ 21	Am.	1958	5517	Am.	1954
§ 21	Am.	1961	5526b	New	1960
§ 21(A)	New	1956	5541	Am.	1952
§ 23	Am.	1952	5546	Am.	1964
§ 24	Am.	1956	5547-1		
§ 25	Am.	1956	to		
§ 30	New	1952	5547-108	New	1958
§ 31	New	1952	5547-4	Am.	1961
§ 32	New	1956	5547-27	Am.	1961
5421n	New	1954	5547-28	Am.	1961
5421o	New	1956	5547-30	Am.	1961

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5547-36	Am.	1964	5924(a)	New	1961
5547-49	Am.	1964	5932, § 9	Am.	1961
5547-83	Am.	1960	6003b	New	1960
5547-92	Am.	1961	6008,		
5547a-39a to 5547a-			§ 2(k)	Am.	1950
39d	New	1964	§ 3	Am.	1950
5550-5554	Rep.	1958	§ 7	Am.	1950
5557-5561	Rep.	1958	§ 14	Am.	1964
5561a, §§ 1-5	Rep.	1958	§ 21	Rep.	1950
5561b	New	1950	6008-1, § 5	Am.	1950
5561b	Am.	1952	6008a,		
5561b	Rep.	1958	§ 3(h)	Am.	1950
5561b-1	New	1956	§ 3(i)	Am.	1950
5561b-1	Rep.	1958	6008a-1	New	1950
5561c	New	1954	6008b	New	1950
§ 18	Am.	1958	§ 3	Rep.	1950
§ 18	Am.	1960	6020a	Am.	1956
5577a	New	1954	6029a	New	1956
5670-5674	Rep.	1952	6050,		
5682	Am.	1964	§ 4	New	1956
5692	Am.	1954	§ 4a	New	1956
5695	Am.	1961	6052a	New	1952
5697	Am.	1961	6052a	Rep.	1960
5728	Am.	1961	6053,		
5766	Am.	1958	§§ 3-19	Rep.	1960
5769b	New	1950	§ 6	Am.	1950
5769b	Rep.	1954	§ 6(c)	New	1952
5769b-1	New	1954	§ 7	Am.	1950
5769c	New	1950	§ 7(c)	New	1952
5780-5789	New	1964	§ 8	Am.	1950
5780-5890c	Rep.	1964	§ 10	Am.	1950
5790a	New	1950	§ 10(c)	New	1952
5798a-2,			§ 11	Am.	1950
§ 1	Am.	1950	§ 11	Am.	1952
§ 2	Am.	1952	§ 12	Am.	1952
§ 2	Am.	1960	§ 18	Am.	1952
5845	Am.	1950	6065	Am.	1960
5845	Am.	1958	6066	Am.	1960
5845a	New	1958	6066	Am.	1961
5890a	Rep.	1954	6066b	New	1950
5890b,			6066c	New	1954
§ 1	Am.	1958	6066d	New	1960
§ 1	Am.	1960	§ 3D	Am.	1961
§ 5	New	1950	§ 5	Am.	1961
5890d	New	1964	§ 6	Am.	1961
5891	Rep.	1954	6067a	New	1950
5891c,			6069b	New	1960
§§ 1-4	Am.	1952	6070e	New	1950
§ 5(a)	New	1952	6070f	New	1956
§ 5(b)	New	1952	6070g	New	1961
§ 7	Am.	1952	6071a	New	1964
5892	Am.	1954	6074-6077a	Rep.	1950
5893-5900	Rep.	1954	6077h-1	New	1952
5916	Rep.	1954	6077h-2	New	1954
5921a	Am.	1950	6077h-3	New	1960
5921b	New	1954	6077i	Rep.	1950
5922a	New	1954	6077j-1	New	1961
5923a	New	1954	6077m-1	New	1964
5923-1	New	1958	6077o	New	1950
5923-101	New	1958	6077o	Am.	1964

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6077p	New	1950	6165a	Rep.	1964
6077q	New	1958	6165b	New	1964
6077r	New	1958	6166a-1	New	1958
6077s	New	1961	6166d	Am.	1952
6077t	New	1964	6166g note	New	1960
6079b	Am.	1956	6166m	Am.	1952
6079b	Am.	1958	6166q	Rep.	1952
6079c	New	1950	6166y	Am.	1956
6079c	Am.	1952	6166z1	Am.	1954
§ 3	Am.	1958	6184l	Am.	1950
§ 12a	New	1958	6196	Rep.	1954
6079c-1	New	1956	6203a		
6079d	New	1954	§ 1	Am.	1964
6079d-1	New	1961	6203c		
6079d-2	New	1964	§ 9	Am.	1950
6079e	New	1958	§ 9	Am.	1964
6079e	Am.	1960	6203c-1	New	1956
6079f	New	1960	6203d	Am.	1956
§ 2	Am.	1961	6203d-1	New	1964
§ 6	Am.	1961	6205	Am.	1952
§ 11	Am.	1961	6221	Am.	1950
§ 12	Am.	1961	6221	Am.	1954
§ 13	Am.	1961	6221	Am.	1958
§ 15	Am.	1961	6227a	New	1950
§ 16	Am.	1961	6228a	Am.	1954
§ 17	Am.	1961	6228a	Am.	1964
6079f-1	New	1961	6228a	Am.	1958
6081e	Am.	1964	§ 1	Am.	1950
6081g,			§ 1(L), (M)	Rep.	1964
§§ 1, 2	Am.	1961	§ 1(P.R.)	Am.	1952
§ 4	Am.	1961	§ 3	Am.	1950
§ 4a	New	1961	§ 3(E)	Am.	1952
6081g-2	New	1964	§ 4(A)	Am.	1952
6081i	New	1952	§ 4(E)	Am.	1961
6081j	New	1964	§ 5	Am.	1950
6110-6132	Rep.	1956	§ 5(A)	Am.	1956
6132a	New	1956	§ 5(B)	Am.	1952
6132b	New	1961	§ 5(C3)	Am.	1964
6138A	New	1961	§ 5(D1)	Am.	1961
6142b	New	1956	§ 5(D3)	Am.	1964
6144	New	1954	§ 5(G)	Am.	1956
6144e	New	1960	§ 5(I)	Am.	1952
§§ 1, 2	Rep.	1964	§ 5(J)	New	1958
6144f	New	1964	§ 6	Am.	1950
6145	Rep.	1952	§ 6(A)	Am.	1964
6145	New	1958	§ 7(B)	Am.	1964
§ 9	Am.	1964	§ 7(F)	New	1960
§ 9a	New	1964	§ 9(A)	Am.	1964
§ 12	Am.	1964	§ 9a	New	1952
6145.1	New	1964	6228a-1	New	1954
6145-2,			6228a-2	New	1956
§ 6	Am.	1952	6228a-2	Am.	1960
§ 13	Am.	1959	6228a-3	New	1958
6145-3	New	1958	6228a-4	New	1961
6145-4			6228b	New	1950
§ 3	Am.	1964	§ 2	Am.	1964
§ 6(A)	Am.	1964	§ 4	Am.	1952
§ 10	Am.	1964	§ 8	Am.	1956
§ 11	Am.	1964	§ 8a	New	1956
§ 13	Am.	1964	6228c	New	1950

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6228c—1	New	1952	6243f,		
6228d	New	1950	§ 3	Rep.	1960
6228d	Am.	1952	§ 4	Am.	1960
6228e	New	1960	§ 4	Am.	1964
6243a,			§ 5	Am.	1960
§ 1	Am.	1952	§ 7	Am.	1952
§ 6	Am.	1954	§ 7	Am.	1958
§ 7	Am.	1954	§ 7	Am.	1960
§ 9	Am.	1954	§ 8	Am.	1952
§ 10	Am.	1954	§ 8	Am.	1958
§ 11	Am.	1954	§ 8	Am.	1960
6243b,			§ 9	Rep.	1960
§§ 1-3	Am.	1964	§ 10	Am.	1952
§§ 6, 7	Am.	1964	§ 10	Am.	1960
§§ 13, 14	Am.	1964	§ 11	Am.	1952
§ 18	New	1960	§ 11	Am.	1960
§ 18	Am.	1961	§ 12	Rep.	1960
§ 18	Am.	1964	§ 13	Am.	1960
6243e,			§ 14	Am.	1960
§ 3A	New	1958	§ 15	Am.	1960
§ 6	Am.	1950	§ 17	Am.	1956
§ 6	Am.	1954	§ 17	Am.	1960
§ 6	Am.	1958	§ 17	Am.	1964
§§ 6A, 6B	New	1958	§ 19	Am.	1960
§ 7	Am.	1954	§ 23	Am.	1960
§ 7	Am.	1958	§ 24	New	1960
§ 7A	New	1954	§ 25	Added	1964
§ 7A	Am.	1958	6243g	Am.	1958
§§ 7B, 7C	New	1958	§ 3(c)	Rep.	1960
§ 9	Am.	1958	§ 3A	Am.	1952
§ 10	Am.	1958	§ 3A(b)	Am.	1954
§ 10a	Am.	1956	§ 3A(d)	New	1954
§ 10A	Am.	1958	§ 4(f)	New	1960
§ 10A	Am.	1964	§ 5(b)	Am.	1960
§ 10B	New	1958	§ 10	Am.	1960
§ 10C	New	1960	§ 12	Am.	1952
§ 10D	Added	1964	§ 12	Am.	1954
§ 10E	Added	1964	§ 12	Am.	1960
§ 12	Am.	1956	§§ 12-16	Am.	1961
§ 12	Am.	1958	§ 13	Am.	1954
§ 12A	New	1958	§ 13	Am.	1960
§ 21	Am.	1956	§ 13A	New	1952
§ 21	Am.	1958	§ 16	Am.	1952
§ 23	Am.	1956	§ 16	Am.	1954
§ 23A	New	1958	§ 16	Am.	1960
§ 23A	Am.	1964	§ 21	Am.	1961
§ 23A-1	Added	1964	6243g—1	Am.	1956
§ 23B	New	1958	6243g—1	Am.	1964
§ 23B	Am.	1964	§ 9	Am.	1961
§ 23C	New	1964	§ [9a]	New	1961
§ 23D	New	1964	6243h	Am.	1950
§ 25A	New	1961	§ II(12)	Am.	1956
§ 27A	New	1958	§ II(16)	Am.	1960
6243e—1	Rep.	1950	§ II(25)	Am.	1960
6243c—2	New	1964	§ II(26)	Am.	1960
6243f,			§ IV	Am.	1956
§ 1	Am.	1952	§ IV(1)	Am.	1960
§ 1	Am.	1960	§ IV(2a)	Am.	1960
§ 1	Am.	1964	§ V(1a)	Am.	1960
§ 2	Am.	1960	§ V(6)	Am.	1960

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6243h	Am.	1950	6674n-1	New	1952
§ V(7)	Am.	1960	6674n-2	New	1960
§ V(7) par. (c)	Am.	1964	6674n-3	New	1964
§ VI(8)	Am.	1964	6674q-5	Rep.	1952
§ VII	Am.	1960	6674s, § 7	Am.	1960
§ VIII(6)	Am.	1964	6674t	New	1952
§ XIII	New	1960	6674t-1	New	1958
6243h-1	New	1950	6674u	New	1954
6243h-2	New	1952	6674v	New	1954
6243i	New	1950	6674w to 6674w-5	New	1958
6243i	Rep.	1952	6675a-1		
6243j	New	1952	(q)	Am.	1964
6252-2	New	1950	(t)	New	1964
6252-3	New	1950	6675a-2	Am.	1954
6252-4	New	1952	6675a-2	Am.	1958
6252-5 to 6252-6	New	1952	6675a-2	Am.	1961
6252-6,			6675a-2		
§ 4(c)	Am.	1954	(e-1)	New	1964
§ 4(d)	Am.	1961	(h)	New	1964
§ 5(g)	Am.	1954	6675a-3	Am.	1956
6252-6a	New	1960	6675a-3	Am.	1961
6252-7	New	1954	6675a-3aa	Am.	1956
6252-8	New	1954	6675a-5	Am.	1952
6252-9	New	1958	6675a-5	Am.	1958
6252-10	New	1960	6675a-5a	New	1958
6252-10a	New	1964	6675a-5b	New	1960
6252-11	New	1961	6675a-6	Am.	1958
6252-12	New	1961	6675a-6a	Am.	1958
6252-13	New	1961	6675a-6b	New	1960
6252-14	New	1964	6675a-6c	New	1964
6258	Am.	1954	6675a-7	Am.	1958
6268	Am.	1950	6675a-8	Am.	1958
6478a	New	1960	6675a-8a	Am.	1956
6519b			6675a-8a	Am.	1958
§§ 1-8	New	1964	6675a-8a	Am.	1960
6550a	Rep.	1954	6675a-8b	Am.	1950
6550(a)	New	1954	6675a-8b	Rep.	1956
6550b	Rep.	1954	6675a-8c	Am.	1958
6560-6573	Rep.	1954	6675a-10	Am.	1958
6573a	Am.	1950	6675a-11	Am.	1952
6573a	Am.	1956	6675a-12a	Am.	1952
§ 10	Am.	1964	6675a-13	Am.	1952
§ 16	Am.	1964	6686	Am.	1964
§ 19	Am.	1960	6686(a)	Am.	1961
§ 19	Am.	1964	6687b,		
§ 21(a)	Am.	1964	§ 3(4a)	New	1952
§ 23	Am.	1964	§ 4	Am.	1958
6602(4)	Am.	1956	§ 4a	New	1958
6626	Am.	1952	§ 5	Am.	1954
6626a	New	1958	§ 5a	New	1954
6626a	Am.	1961	§ 15	Am.	1952
6636	Am.	1956	§ 15	Am.	1956
6640	Am.	1960	§ 15	Am.	1958
6644	Am.	1954	§ 15	Am.	1960
6673a	Am.	1954	§ 15	Am.	1961
6673e-1	New	1958	§ 15a	New	1954
6673e-2	New	1958	§ 19	Am.	1952
6674m	Am.	1960	§ 19	Am.	1956
6674m	Am.	1964	§ 19	Am.	1961
6674n	Am.	1956	§ 21	Am.	1960

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6687b.			6701g	New	1952
§ 22	Am.	1960	§ 4	Am.	1954
6687b note	Am.	1960	§ 4	Am.	1956
6701a,			6701h	New	1952
§ 1	Am.	1954	§ 1(10)	Am.	1964
§ 3	Am.	1950	§ 2(b)	Am.	1964
6701c	Rep.	1956	§ 2(d)	Added	1964
6701c-1	New	1954	§§ 4-7	Am.	1964
§ 2	Am.	1956	§ 7A	New	1964
§ 2	Am.	1964	§ 8(c)	Am.	1964
§ 4	Am.	1956	§§ 9-11	Am.	1964
§ 5	Am.	1956	§ 13	Am.	1964
§ 9	Am.	1964	§ 15	Am.	1964
6701c-2	New	1954	§ 17	Am.	1964
6701d,			§ 21(a, b)	Am.	1964
§ 2	Am.	1954	§ 25	Am.	1964
§ 44	Am.	1954	§ 28	Am.	1964
§ 69	Am.	1952	§ 29	Am.	1964
§ 93(a)	Am.	1960	§ 31	Am.	1964
§ 104	Am.	1954	§ 32(b)	Am.	1964
§ 104(a)	Am.	1956	§ 32(f)	Am.	1964
§ 104(d)	New	1958	§ 32(g)	Am.	1964
§ 105	Am.	1954	6701i	New	1958
§ 105	Am.	1964	6701j	New	1958
§ 106	Am.	1950	§ 4	Am.	1964
§ 106(a)	Am.	1956	6701k	New	1964
§ 106(d)	New	1956	6701½	New	1958
§ 108A	New	1956	6703a	New	1956
§ 108B	New	1956	6704	Am.	1954
§ 108B(c)	Am.	1961	6711	Am.	1954
§ 112(b)	Am.	1961	6716-1,		
§ 121	Am.	1960	§ 5	Am.	1958
§ 125	Am.	1960	§ 6	Am.	1958
§ 126	Am.	1956	§ 15	Am.	1958
§ 127	Am.	1956	6745	Am.	1952
§ 131	Am.	1954	6762	Am.	1958
§ 131	Am.	1960	6795b, § 1	Am.	1960
§ 132(3)	Am.	1961	6795b-1,		
§ 136	Am.	1952	§ 1	Am.	1956
§ 139	New	1952	§ 2	Am.	1950
§ 139a	Am.	1960	§ 5a	New	1950
§ 140	Am.	1952	§ 7	Am.	1950
§ 140	Am.	1954	§ 7(a)	New	1950
§ 141	Am.	1952	§ 7(b)	New	1950
§ 141	Am.	1954	6795c	New	1956
§ 142	Am.	1952	6812b	New	1952
§ 142	Am.	1954	6812c	New	1954
§ 148	Am.	1954	6813 note	New	1960
§§ 158-165	New	1954	6813b	Am.	1961
§§ 166-172	New	1964	6813b	New	1964
6701d-1	New	1954	6819a	Rep.	1952
6701d-2	New	1954	6819a-3	Am.	1952
6701d-3	New	1961	6819a-4	Rep.	1950
6701e	New	1952	6819a-5	New	1950
6701f	New	1952	6819a-6	New	1950
6701g	New	1952	6819a-6	Rep.	1952
§ 1	Am.	1954	6819a-6	Rep.	1958
§ 1	Am.	1956	6819a-7		
§ 3	Am.	1954	to		
§ 3	Am.	1956	6819a-9	New	1952

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6819a-9	Rep.	1958	6954	Am.	1950
6819a-9(a)	Rep.	1956	6954	Am.	1954
6819a-10	New	1956	6954	Am.	1956
6819a-10	Rep.	1958	6954	Am.	1958
6819a-11	New	1956	6954	Am.	1960
6819a-12			6965	Am.	1954
to			6965	Am.	1961
6819a-18	New	1958	6967	Am.	1954
6819a-12a	New	1960	6967	Am.	1961
6819a-12a	New	1964	7005-1	New	1958
6819a-19			7009	Am.	1956
to			7009a	New	1960
6819a-25	New	1960	7047		
6819a-19c	New	1964	(24)	Am.	1952
6819a-19a	New	1961	(40b)	Am.	1952
6819a-19b	New	1961	(41a)	New	1950
6819a-23a	New	1964	(41a)	Am.	1952
6819a-25a	New	1961	(46)	Am.	1952
6819a-26	New	1961	(46f)	Am.	1950
6819a-27	New	1961	7047a-2	Am.	1952
6819a-28	New	1961	7047a-3	Am.	1950
6819a-29	New	1961	7047a-3	Am.	1952
6819a-30	New	1961	7047a-4	Am.	1952
6819a-31	New	1964	7047a-5	Rep.	1960
6819a-32	New	1964	7047a-6		
6819a-33	New	1964	to		
6819a-34	New	1964	7047a-15	Am.	1952
6819a-35	New	1964	7047a-15a	New	1952
6819a-36	New	1964	7047a-16	Am.	1952
6820	Am.	1950	7047a-19	Am.	1954
6820	Am.	1956	7047a-19	Am.	1958
6822a	New	1960	(1)	Am.	1960
6823	Am.	1950	7047a-19a	New	1954
6823	Am.	1954	7047a-19a	Rep.	1958
6823a	New	1960	7047a-19b	New	1954
§ 6(c)	Am.	1964	7047a-19b	Rep.	1958
6824 note	New	1950	7047b,		
6839e	New	1950	§ 1	Am.	1952
6839f	New	1952	§ 1(1)	Am.	1956
6839g	New	1956	§ 1(3)	Am.	1954
6851a	New	1952	§ 1(3)	Am.	1956
6877-1	Am.	1961	§ 1½	New	1950
6877-2	New	1954	§ 2(12)	Am.	1950
6889b	New	1950	§ 3-a	Rep.	1952
6889c	New	1952	7047c-1,		
6889c	Rep.	1961	§ 1(a)	Am.	1960
6889d	New	1954	§ 2	Am.	1950
6889d	Am.	1961	§ 2	Am.	1956
6889e	New	1956	§ 2(e)	Am.	1960
6889-3	New	1952	§ 2a	New	1950
6889-3A	New	1956	§ 2½	New	1956
6889-4	New	1952	§ 3	Am.	1950
§ 5	Am.	1954	§ 3	Am.	1956
6889-5	New	1952	§ 3	Am.	1960
6899d	Superseded	1956	§ 3a	Am.	1960
6899d-1	New	1956	§ 30a	New	1950
6930	Am.	1954	7047c-2	Rep.	1960
6935	Am.	1956	7047d, § 3	Am.	1954
6937	Am.	1956	7047f	Rep.	1960
			7047h-7047j	Rep.	1960

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7047k,			7065b-7(a)	Am.	1958
§ 1	Am.	1952	7065b-8	Am.	1956
§ 3(c)	Am.	1952	7065b-9		
§ 5a	Am.	1952	to		
§ 6	Am.	1952	7065b-12	Rep.	1960
7047k-1	New	1950	7065b-13	Am.	1952
§ 2	Am.	1952	7065b-13	Am.	1954
7047l,			7065b-14	Am.	1952
§ 1	Am.	1952	(a)	Am.	1956
§ 1½	New	1950	(g)	Am.	1956
7047l-1	New	1956	7065b-14a	New	1956
7047m,			7065b-14b	New	1956
§ 1	Am.	1952	7065b-14c		
§ 1½	New	1950	to		
7047n	New	1950	7065b-17	Rep.	1960
7047o	New	1950	7065b-18	Am.	1952
7048a	New	1950	7065b-19		
§ 10(a) (4)	Am.	1952	to		
7048b	New	1952	7065b-21	Rep.	1960
7048b	Am.	1956	7065b-22	Am.	1952
7057	Rep.	1960	7065b-23	Rep.	1960
7057a,			7065b-24	Rep.	1960
§ 2(1)	Am.	1952	7065b-25	Am.	1952
§ 2A	New	1950	7065b-25	Am.	1960
7057b,			7065b-26	Am.	1952
§ 2a	Am.	1961	7065b-27	Am.	1952
7057e	New	1950	7065b-28	Rep.	1960
7057e	Rep.	1960	7065b-29	Rep.	1960
7057f	New	1952	7066	Rep.	1960
7058	Rep.	1960	7066b(aa)	New	1956
7059	Rep.	1960	7066b	Am.	1952
7060	Am.	1952	7066b-1	Rep.	1960
7060½	New	1950	7066c	New	1950
7060a	Am.	1952	7068	Rep.	1960
§ 1	Am.	1956	7069	Rep.	1960
7060b	New	1950	7070	Am.	1952
7061	Rep.	1960	7070a	New	1950
7062	Rep.	1960	7071	Rep.	1960
7063	Am.	1954	7072	Rep.	1954
7064	Am.	1952	7076	Rep.	1960
7064½	New	1950	7078	Rep.	1960
7064a	New	1950	7080	Am.	1952
7064a	Am.	1952	7081	Am.	1952
7064a-1	New	1950	7082	Am.	1952
7065	Rep.	1960	7083a, § 2	Am.	1958
7065b-1	Am.	1952	(1)	Am.	1956
(a)	Am.	1958	(1)	Am.	1960
(c)	Am.	1958	(2)	Am.	1956
(g)	Am.	1958	(2)	Am.	1960
(n)	Am.	1958	§ 2(1, 4)	Am.	1961
(q)	New	1958	§ 2(3A)	New	1961
7065b-2	Am.	1952	§ 2(5)	Am.	1961
(a)	Am.	1956	§ 2(7)	New	1961
(b)	Am.	1954	(3)	Am.	1960
(b)	Am.	1958	(4)	Am.	1956
7065b-3	Am.	1952	(4)	Am.	1960
7065b-4	Rep.	1960	(4-a)	Am.	1950
7065b-5	Am.	1958	(4-b)	New	1950
(a)	Am.	1956	(4b)	Am.	1960
7065b-6	Rep.	1960	(4-c)	New	1956

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7083a, § 2	Am.	1958	7260,		
(4c)	Am.	1960	§ 8	New	1961
(6)	Am.	1960	7264b	Rep.	1952
7083a.2	New	1961	7298	Am.	1952
7084	Am.	1950	7298	Am.	1954
7084	Am.	1952	7298a	New	1958
7084	Am.	1956	7321a	Am.	1952
(2)	Am.	1958	7331	Am.	1954
7084b	New	1960	7332	Am.	1952
7084½	New	1950	7332	Am.	1961
7084½	Rep.	1960	7333	Am.	1952
7085	Am.	1950	7335b	New	1952
7085	Rep.	1960	7336f	Am.	1952
7086	Am.	1950	§ 2	Am.	1956
(1)	Am.	1956	7345b	New	1952
7087	Am.	1950	§ 8	Am.	1954
7087	Rep.	1960	7345b-2	New	1956
7089	Am.	1950	7345e	New	1950
(1)	Am.	1956	7425b-10	Am.	1964
7089a-7089h	Rep.	1950	7425b-25,		
7090-7092	Am.	1950	par. L	Am.	1961
7090	Rep.	1960	7425c	New	1952
7091	Am.	1956	7425d	New	1956
7092	Am.	1956	7428-1	New	1952
7092a	New	1950	7428-2	New	1952
7092a	Rep.	1960	7436a	New	1958
7093	Am.	1950	7443-7465	Rep.	1954
7093	Rep.	1960	7465a	New	1954
7094	Am.	1950	§ 8	Am.	1960
7094	Am.	1952	§ 13	Am.	1960
7094	Am.	1956	§ 14	Am.	1960
7094	Am.	1958	§ 16	Am.	1958
7094	Am.	1960	§ 16(b)	Am.	1960
7095	Am.	1950	7466f	New	1950
7095	Rep.	1960	7466g	New	1950
7096	Am.	1952	7466h	New	1952
7097	Am.	1950	7466i	New	1954
7097	Rep.	1960	§ 1 art. VII(c)	Am.	1961
7098	Am.	1964	§ 2	Am.	1961
7105a	New	1956	7467b	New	1950
7117-7121	Rep.	1960	7467c	New	1954
7122	Am.	1956	7470	Am.	1954
7122	Am.	1960	7470	Am.	1958
7122-a	New	1958	7470a	Rep.	1954
7123-7139	Rep.	1960	7470b	New	1954
7141	Rep.	1960	7472d-1	New	1958
7143	Rep.	1960	7472e	New	1956
7144	Rep.	1960	7477	Am.	1954
7144a	Rep.	1960	7477a	New	1954
7150,			7478-7487	Rep.	1954
7	Am.	1961	7488	Rep.	1954
20	New	1955	7490	Rep.	1954
21	New	1960	7491	Rep.	1954
7150b	Am.	1961	7492	Am.	1954
7150f	New	1964	7492a	New	1954
7151	Am.	1952	7493	Am.	1954
7212	Am.	1950	7500a	Am.	1954
7212	Am.	1964	7500a	Am.	1960
7228-7241	Rep.	1952	7512	Rep.	1954
7258a	Am.	1954	7515	Am.	1954

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7515a	New	1954	7880-76c,		
7519a	New	1954	§ 1	Am.	1952
7519a	Am.	1958	§ 1	Am.	1961
7519b	New	1954	§ 2	Am.	1952
7519b	Am.	1958	§ 2	Am.	1961
7531	Am.	1954	§ 5	Am.	1961
7531a	New	1954	§ 6	Am.	1961
7537a	Am.	1961	§ 7	Am.	1952
7537b	New	1957	§ 8	Am.	1952
7550a	New	1957	§ 11	Am.	1952
7564	Rep.	1954	§ 17a	New	1952
7569	Rep.	1954	7880-90a	Am.	1952
7577	Rep.	1961	7880-101	Am.	1961
7583	Am.	1950	7880-107	Am.	1961
7589b	New	1958	7880-111(c)	New	1958
7612	Am.	1956	7880-117	Am.	1958
7612a	Am.	1956	7880-123a	Am.	1961
7612b	New	1956	7880-139	Am.	1961
7621a	New	1954	7880-147c1	Am.	1958
7621a	Rep.	1961	7880-147c6a	New	1958
7621b	New	1961	7880-147c8	New	1952
7621c	New	1961	7880-147c9	New	1956
7621d	New	1961	7880-147c10	New	1958
7622b-1	New	1958	7880-147z1	New	1952
7641-b	Am.	1961	7880-147z1	Rep.	1958
7652b	New	1956	7880-147z2	New	1956
7656a	New	1960	7880-147z3	New	1958
7661	Am.	1950	7880-147z4	New	1958
7718	Am.	1960	7880-147z5	New	1958
7718c	New	1954	7880-147z6	New	1958
7718c	Rep.	1960	7893a	New	1952
7723a	New	1961	7897	Am.	1961
7807d			7922	Am.	1956
§ 10	Am.	1964	7930-4	Am.	1958
7807n	New	1957	7930-5	Am.	1956
7880-1 notes	New	1958	7941b	New	1952
7880-1 notes	New	1960	7941c	New	1952
7880-1a	New	1961	7987	Am.	1954
7880-3c	New	1950	7987	Am.	1958
(A5)	Am.	1956	7987-1	New	1960
(A6e)	New	1956	8097 notes	New	1960
(A9)	Am.	1956	8120	Am.	1956
(B3)	Am.	1956	8120	Am.	1958
(B4)	Am.	1956	8120	Am.	1961
(B10)	New	1956	8120a	New	1950
(B11)	New	1961	8152a	New	1952
(D4a)	Am.	1956	8161b, § 7	Am.	1961
(D5)	New	1956	8161d	New	1950
7880-16	Am.	1958	8176b	New	1956
7880-19	Am.	1958	8176b-1	New	1958
7880-20a	New	1956	8176b-2	New	1960
7880-21	Am.	1961	8176c	New	1958
7880-23	Am.	1958	8176d	New	1960
7880-38a, § 1	Am.	1956	8217a	New	1954
7880-43	Am.	1958	8224	Am.	1958
7880-74a	New	1952	8225	Am.	1952
7880-75c	New	1950	8227a	New	1956
7880-76	Am.	1958	8235a,		
7880-76c,			§ 3	Am.	1956
§ 01	New	1961	§ 3	Am.	1958

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8235a,			8280-119,		
§ 4	Am.	1956	§ 2-a	Am.	1961
§ 9	Am.	1956	§ 3	Am.	1961
8244a	New	1956	§ 3(e)	Am.	1958
8247b, § 1(b, c)	Am.	1958	§ 4	Rep.	1961
§ 7a	New	1952	§ 4-a	Am.	1961
§ 18a	New	1952	§ 5	Rep.	1961
§ 18b	New	1952	§ 7	Rep.	1961
§ 18c	New	1952	§ 9	Am.	1961
8247b-1	New	1961	§ 10	New	1961
8247e	New	1950	§ 10	Rep.	1961
8247e	Am.	1958	§§ 11, 12	Am.	1961
§ 2	Am.	1954	§§ 13, 14	Am.	1961
§ 3	Am.	1954	§ 14-a	Am.	1961
8247f	New	1956	§ 15-a	Am.	1961
8263a,			§ 15-b	Am.	1961
§ 3a	New	1952	§ 16	Am.	1961
§ 5	Am.	1961	§ 16-a	Rep.	1961
8263e,			§ 17-a	New	1960
§ 18-a	New	1950	§ 18	Am.	1961
§ 66	Am.	1964	§§ 21-a, 22	Am.	1961
§ 78	Am.	1960	§ 25	Am.	1961
§ 84	Am.	1960	8280-120a	New	1964
8263f-1	New	1952	8280-124, § 10(a)	New	1958
8263h,			8280-126, § 8(e)	Am.	1958
§ 3	Am.	1961	8280-128	Rep.	1960
§§ 51, 52	New	1950	8280-131	Am.	1960
8263i	Am.	1954	§ 11a	Added	1964
8263j	New	1950	8280-135, § 12	Am.	1958
8263k	New	1950	8280-137,		
8264	Am.	1964	§ 28	New	1961
8270	Am.	1964	8280-138		
8274	Am.	1952	§ 1	Am.	1964
8274	Am.	1954	§ 3	Am.	1964
8274	Am.	1956	§ 9	Am.	1964
8274	Am.	1960	§ 14	Am.	1964
8274	Am.	1961	8280-146		
8274	Am.	1964	§ 1a	Added	1964
8280-2 to 8280-4	New	1950	8280-147,		
8280-3.5	New	1960	§ 7(a)	New	1960
8280-5	New	1954	§ 7-a	New	1960
8280-6	New	1954	§ 7-b	New	1960
8280-7	New	1956	§ 21(b)	New	1960
8280-8	New	1958	8280-147a	New	1961
8280-9	New	1958	8280-154	Am.	1958
§ 4	Am.	1960	§ 5(a)	Am.	1961
§ 10-B	Am.	1961	§ 13(o)	Am.	1961
§ 10-D	Am.	1960	§ 13(p)	Am.	1961
§ 10-D	Am.	1961	§ 15(l)	Am.	1961
§ 14	Am.	1961	8280-157,		
§ 15	Am.	1961	§ 2	Am.	1960
§ 21-a	New	1964	§ 3	Am.	1958
8280-10	New	1961	8280-160, § 13	Am.	1958
§ 1	Am.	1961	§ 3	Am.	1960
§ 3	Am.	1964	§ 6(d)	Am.	1958
8280-11	New	1961	§ 6(f)	Am.	1958
8280-107, § 10	Am.	1960	§ 15(a)	Am.	1958
8280-119,			§ 15(a)	Am.	1960
§ 1(h)	Am.	1961	§ 15(e)	Am.	1958
§ 2	Am.	1961			

VERNON'S TEXAS STATUTES

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8280-160, § 13	Am.	1958	8280-207a	New	1961
§ 24-A	New	1960	8280-207b	New	1961
§ 24-A	Am.	1960	8280-210		
8280-160,			to		
§ 7	Am.	1961	8280-215	New	1958
§ 13	Am.	1958	8280-211,		
8280-161,			§ 2	Am.	1961
§ 4	Rep. in part	1960	§ 3	Am.	1961
§ 4-A	New	1960	§ 6	Am.	1961
8280-162,			§ 9	Am.	1961
§ 1	Am.	1958	8280-212,		
§ 5(l)	New	1960	§ 15(a)	New	1961
§ 7	Am.	1961	8280-213,		
§ 12(g)	Am.	1961	§ 15(a)	New	1961
§ 22	Rep.	1960	8280-216	New	1960
§ 22	Am.	1961	8280-217	New	1960
§ 23	Am.	1964	§ 6	Am.	1960
8280-167,			8280-218		
§ 2	Am.	1960	to		
§ 3-A	New	1958	8280-226	New	1960
§ 12(a)	New	1958	8280-221		
8280-172, § 4(a)	New	1958	§ 2	Am.	1964
8280-173,			8280-227	New	1960
§ 1	Am.	1961	§ 6	Rep. in part	1960
§ 2	Am.	1961	§ 6-A	New	1960
§ 6	Am.	1960	8280-228		
§ 6	Am.	1961	to		
§ 8	Am.	1961	8280-244	New	1960
8280-174, § 3	Am.	1960	8280-228,		
8280-177,			§ 16a	New	1961
§ 2	Am.	1961	§ 19	Am.	1961
§ 3(a)	Am.	1961	8280-238,		
§ 3(c)	Am.	1961	§ 2	Am.	1961
§ 3(d)	Am.	1961	§ 3	Am.	1961
8280-187,			8280-243	Rep.	1964
§ 1	Am.	1958	8280-243,		
§ 1	Am.	1960	§ 17	Am.	1961
§ 1	Am.	1961	§ 23(a)	Am.	1961
8280-188,			§ 27	Am.	1961
§ 2a-1	New	1958	8280-245		
§ 5(f)	Am.	1960	to		
§ 8(d)	Am.	1960	8280-253	New	1961
§ 8-A	New	1958	8280-248		
8280-191			§ 19	Am.	1964
to			8280-251		
8280-209	New	1958	§ 2-A	Added	1964
8280-196, § 2	Am.	1961	§ 2-B	Added	1964
8280-198, § 5(L)	New	1961	§ 2-C	Added	1964
8280-198a	New	1961	8280-253	Rep.	1961
8280-200,			8280-254		
§ 2	Am.	1961	to		
§ 3	Am.	1961	8280-269	New	1961
§ 6	Am.	1961	8280-265		
§ 9	Am.	1961	§ 18a	Added	1964
8280-206,			§ 24	Am.	1964
§ 2	Am.	1960	8280-274	Rep.	1964
§ 2	Am.	1961	8280-275	Rep.	1964
§ 3(b)	Am.	1961	8280-278	New	1964
§ 5(j)	Am.	1961	8280-279	New	1964

ARTICLES AFFECTED FROM 1949 TO 1963

Civ.St. Art.	Effect	Vernon's Texas St.Supp.	Civ.St. Art.	Effect	Vernon's Texas St.Supp.
8280—280	New	1964	8309b,		
8280—281	New	1964	§ 3	Am.	1958
8280—282	New	1964	§ 4	Am.	1950
8280—283	New	1964	§ 7	Am.	1950
8280—284	New	1964	§ 7	Am.	1954
8280—285	New	1964	§ 7	Am.	1960
8280—286	New	1964	§ 10	Am.	1954
8280—287	New	1964	§ 13	Am.	1954
8280—288	New	1964	§ 14	Am.	1954
8280—289	New	1964	§ 14	Am.	1958
8280—290	New	1964	§ 15	Am.	1958
8280—291	New	1964	§ 18	Am.	1954
8280—292	New	1964	8309c	New	1950
8280—293	New	1964	§ 3	Am.	1956
8280—294	New	1964	§ 3	Am.	1958
8280—295	New	1964	§ 6	Am.	1954
8280—296	New	1964	§ 9	Am.	1954
8293	Am.	1950	§ 10	Am.	1956
8306,			§ 15	Am.	1954
§ 2	Am.	1964	§ 17	Am.	1956
§ 2a	Added	1964	8309d	New	1952
§ 3	Am.	1964	§ 7	Am.	1960
§ 6	Am.	1954	8309e	New	1954
§ 7	Am.	1954	8309f	New	1958
§ 7	Am.	1958	§ 7	Am.	1964
§ 7a	Am.	1954	8310—8324	Rep.	1954
§ 7b	Am.	1954			
§ 7c	Am.	1958			
§ 7d	Am.	1958			
§ 7d	Am.	1960			
§ 8	Am.	1958			
§ 9	Am.	1961			
§§ 10—12	Am.	1958			
§ 12c—2	Am.	1958			
§ 12f	Am.	1954			
§ 15	Am.	1960			
§ 15a	Am.	1952			
§ 15a	Am.	1956			
§ 20	Am.	1956			
§ 25	Am.	1960			
§ 26(d)	Am.	1958			
§ 28	New	1958			
8306a	Am.	1952			
8306a	Am.	1956			
8307,					
§ 4	Am.	1954			
§ 5	New	1958			
8308,					
§ 1A	New	1954			
§ 16	Am.	1954			
§ 18	Rep.	1954			
8309,					
§ 1	Am.	1960			
§ 1b	New	1958			
§ 2	Am.	1954			
8309a	Am.	1954			
8309b,					
§ 2	Am.	1950			
§ 2	Am.	1958			

BUSINESS CORPORATION ACT		
Bus. Corp.Act Art.	Effect	Vernon's Texas St.Supp.
1.01 to 11.01	New	1956
2.18, § A	Am.	1958
2.19,		
§ A	Am.	1958
§§ E, F	New	1958
2.22,		
§ A	Am.	1958
§ C	Am.	1958
2.29,		
(C)	Am.	1961
D	Am.	1958
D(1)—D(3)	Am.	1961
2.30(B)	New	1961
3.02, § A	Am.	1958
3.05, § A	Am.	1958
4.07,		
§ B	Am.	1958
§ C(2)	Am.	1958
4.14	New	1961
5.09	Am.	1958
5.10	Am.	1958
5.11, § A	Am.	1958
7.05, subs. A(1) (e)	Am.	1961
8.01, § B	Am.	1958
8.03	Am.	1964
8.03(A)	Am.	1961
8.14, § A	Am.	1958

VERNON'S TEXAS STATUTES

Bus. Corp. Act Art.	Effect	Vernon's Texas St. Supp.	Elec. Code Art.	Effect	Vernon's Texas St. Supp.
9.14,			5.14	Am.	1964
§ A	Am.	1960	5.15	Am.	1964
§ E	Am.	1960	5.16	Am.	1964
§ F	New	1960	5.17	Am.	1961
10.01	Am.	1961	5.22	Am.	1964
§ A(13)	Am.	1958	6.01	Am.	1956
			6.01	Am.	1960
			6.01a	Added	1964
			6.02	Am.	1964
			6.04	Am.	1964
			6.05	Am.	1958
			6.05a	New	1964
			6.05b	New	1964
			6.05c	New	1964
			6.05d	New	1964
			6.05e	New	1964
			6.06	Am.	1958
			6.06	Am.	1964
			6.07	Am.	1956
			7.06	Am.	1964
			7.10	Am.	1964
			7.14	New	1956
			§§ 2, 3	Am.	1964
			§ 5	Am.	1964
			§ 7	Am.	1964
			§ 7a	New	1958
			§ 7a	Am.	1964
			§ 7b	New	1960
			§ 8	Am.	1964
			§ 8a	New	1964
			§ 10	Am.	1964
			§§ 12, 13	Am.	1964
			§ 15	Am.	1958
			§ 16a	New	1960
			§§ 17-20	Am.	1964
			§ 20	Am.	1961
			§ 22	Rep.	1964
			§§ 24, 25	Am.	1964
			7.15	Rep.	1964
			7.16, § 3	New	1961
			7.17	Am.	1961
			8.01	Am.	1964
			8.02	Am.	1964
			8.09	Am.	1964
			8.10	Rep.	1964
			8.11	Am.	1964
			8.13	Am.	1958
			8.13	Am.	1964
			8.13a	New	1964
			8.15	Am.	1964
			8.18	Am.	1964
			8.19	Am.	1964
			8.22	Am.	1964
			8.23	Am.	1964
			8.25		
			§ 5	Rep.	1964
			8.29	Am.	1964
			8.29a	New	1964
			8.29b	New	1964

ELECTION CODE

Elec. Code Art.	Effect	Vernon's Texas St. Supp.
1.01 to 14.12	New	1952
1.01a	New	1964
1.03	Am.	1964
1.05	Am.	1964
1.08	Rep.	1964
2.01	Am.	1961
2.01	Am.	1964
2.02	Am.	1964
2.04	Am.	1964
2.05	Am.	1964
3.01	Am.	1964
3.02	Am.	1964
3.03	Am.	1964
3.04	Am.	1964
3.05	Am.	1964
3.06	Am.	1964
3.07	Am.	1964
3.08	Am.	1964
4.07	Rep.	1964
4.10	Am.	1961
4.11	New	1961
5.01	Am.	1964
5.02	Am.	1964
5.02a	Added	1964
5.03	Am.	1957
5.05,		
Subds. 1-5	Am.	1960
Subd. 1	Am.	1964
Subd. 1a	Am.	1964
Subd. 2	Am.	1964
Subd. 2a	Am.	1964
Subd. 3	Am.	1964
Subd. 3a	Am.	1964
Subd. 3b	Am.	1964
Subds. 4-8	Am.	1964
Subd. 6	Am.	1958
Subds. 6-8	Am.	1960
Subds. 14-16	Am.	1964
Subds. 15-17	New	1960
Subd. 18	New	1964
5.06	Am.	1960
5.08	Am.	1964
5.09	Am.	1960
5.10	Am.	1964
5.11	Am.	1958
5.11	Am.	1964
5.12	Am.	1964
5.14	Am.	1960

ARTICLES AFFECTED FROM 1949 TO 1963

Elec. Code Art.	Effect	Vernon's Texas St.Supp.	Elec. Code Art.	Effect	Vernon's Texas St.Supp.
8.30	Am.	1964	13.36	Rep.	1964
8.31	Am.	1964	13.38	Am.	1964
8.32	Am.	1964	13.43a	New	1958
8.33	Rep.	1964	13.43a	Am.	1964
8.36	Am.	1964	13.45	Am.	1960
8.38	Am.	1964	13.45	Am.	1964
8.41	Am.	1964	13.46	Am.	1960
8.42	Am.	1964	13.46	Am.	1964
8.44	Rep.	1964	13.47	Am.	1960
9.29	Am.	1964	13.47	Am.	1964
11.01a	New	1964	13.47a	New	1961
11.02	Am.	1964	13.48	Am.	1964
11.04	Am.	1964	13.50	Am.	1964
12.02	Am.	1958	13.51	Am.	1964
Pars. 3, 4	Am.	1964	13.52	Am.	1964
13.01a	New	1960	13.53	Am.	1964
Par. (2)	Am.	1964	13.56	Am.	1964
13.03	Am.	1960	13.58	Am.	1960
13.04A	New	1956	14.01	Am.	1964
13.05	Rep.	1964	14.07	Am.	1964
13.07a	New	1964	14.08	Am.	1956
13.08	Am.	1956	Par. (f)	Am.	1964
13.08	Am.	1960	14.10	Am.	1964
13.08	Am.	1964			
13.08a	New	1958			
13.08a	Am.	1964			
13.08b	New	1964			
13.08c	New	1964			
13.09	Am.	1958			
13.09	Am.	1964			
13.10	Rep.	1964			
13.11a	New	1964			
13.12	Am.	1960			
13.12	Am.	1964			
13.12a	New	1964			
13.13	Am.	1964			
13.14	Am.	1960			
13.15	Am.	1956			
13.15	Am.	1964			
(b)	Am.	1961			
13.17	Am.	1960			
13.18	Am.	1964			
13.18a	New	1964			
13.21	Am.	1964			
13.23	Am.	1964			
13.24	Am.	1960			
13.24	Am.	1964			
13.25	Am.	1964			
13.26a	Added	1964			
13.27	Am.	1960			
13.27	Am.	1964			
13.28	Rep.	1964			
13.33	Am.	1964			
13.34	Am.	1958			
13.34	Am.	1960			
13.34	Am.	1964			
13.34a	Added	1964			
13.35	Am.	1960			
13.36	Am.	1960			

INSURANCE CODE					
Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
1.01 to 21.44	New	1952	1.01	Am.	1956
1.02	Am.	1956	1.02	Am.	1958
1.02	Am.	1958	1.03	Am.	1956
1.03	Am.	1956	1.03	Am.	1958
1.03	Am.	1958	1.04	Am.	1956
1.04	Am.	1956	1.04	Am.	1958
1.04	Am.	1958	1.04(e)	Rep.	1961
1.04(e)	Rep.	1961	1.04 note	Am.	1961
1.04 note	Am.	1961	1.05-1.07	Am.	1958
1.05-1.07	Am.	1958	1.05(b)	Am.	1961
1.05(b)	Am.	1961	1.08	Am.	1956
1.08	Am.	1956	1.08	Am.	1958
1.08	Am.	1958	1.09	Am.	1958
1.09	Am.	1958	1.09-1 to 1.09-3	New	1958
1.09-1 to 1.09-3	New	1958	1.09-3	Am.	1961
1.09-3	Am.	1961	1.10(4)	Am.	1960
1.10(4)	Am.	1960	1.10(5)	Am.	1956
1.10(5)	Am.	1956	1.10(17)	New	1960
1.10(17)	New	1960	1.14	Am.	1956
1.14	Am.	1956	§ 1	Am.	1960
§ 1	Am.	1960	1.15	Am.	1956
1.15	Am.	1956	1.16	Am.	1956
1.16	Am.	1956	1.17	Am.	1956
1.17	Am.	1956	1.18	Am.	1956
1.18	Am.	1956	1.19	Am.	1956
1.19	Am.	1956	1.26	New	1964
1.26	New	1964	2.01	Am.	1956
2.01	Am.	1956	2.02	Am.	1956
2.02	Am.	1956	2.03	Am.	1956
2.03	Am.	1956	2.03-1	New	1956
2.03-1	New	1956			

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Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
2.04	Am.	1956	3.39		
2.05	Am.	1956	Part I, Par. C. 3	Am.	1964
2.07,			Part II, Par. A. 8	Am.	1964
§ 1	Am.	1958	3.39a	New	1961
§ 1	Am.	1961	3.40	Am.	1956
§ 5	Am.	1961	3.40	Am.	1960
§ 6	Am.	1956	3.40	Am.	1961
2.08	Am.	1956	(5)	Am.	1961
2.08	Am.	1960	3.42	Am.	1958
2.08	Am.	1961	3.43	Rep.	1958
2.10	Am.	1956	3.44		
2.10	Am.	1961	§ 3	Am.	1964
2.10(3)	Am.	1960	§ 7	Am.	1960
2.11	Am.	1961	§ 7	Am.	1964
2.14	Am.	1960	§ 8	Am.	1964
2.18	Am.	1956	§ 12	Am.	1964
2.20	New	1956	3.44a	New	1964
2.21	New	1956	3.46	Am.	1964
3.01	Am.	1961	3.49-1	New	1954
§ 10	Am.	1964	3.49-2	New	1960
3.02	Am.	1956	3.50	Am.	1958
3.02a	New	1956	§ 1(1) (d)	Am.	1956
3.02a	Am.	1961	§ 1(1) (d)	Am.	1960
3.03	Rep.	1956	§ 1(3)	Am.	1954
3.04	Am.	1956	§ 1(3)	Am.	1956
3.04	Am.	1958	§ 1(3)	Am.	1961
§ 1(3)	Am.	1960	§ 1(4)	Am.	1956
3.06	Am.	1956	§ 1(4)	Am.	1960
3.10	Am.	1961	§ 1(5.6)	New	1961
3.11	Am.	1956	§ 3	Am.	1964
3.11	Am.	1964	§§ 4, 5	Rep.	1964
3.12	Am.	1958	3.51, § 1	Am.	1961
3.15	Am.	1958	3.51-1	New	1964
3.16	Am.	1958	§ 2(c)	Am.	1964
3.16	Am.	1961	§ 2(e-g)	Am.	1964
3.17	Am.	1961	3.53	Am.	1964
3.18	Am.	1961	3.60	Am.	1956
3.19	Rep.	1961	3.62-1	New	1958
3.22	Am.	1956	3.62-1	Am.	1961
3.28	Am.	1960	3.69	New	1956
3.28	Am.	1964	3.70-1 to 3.70-10	New	1956
3.30	Am.	1956	3.71	New	1964
3.30	Rep.	1964	4.01	Am.	1958
3.32	Am.	1956	4.08	New	1964
3.33	Rep.	1964	5.01	Am.	1954
3.34	Am.	1954	5.04	Am.	1954
3.34	Am.	1960	5.05	Am.	1954
3.34	Am.	1961	5.09	Am.	1954
(as amended by			5.11	Am.	1954
ch. 168, § 1)	Rep.	1961	5.13	Am.	1956
3.35	Rep.	1964	5.26	Am.	1956
3.37	Rep.	1964	5.50	Am.	1956
3.39	Am.	1961	5.54	Am.	1956
(1)	Am.	1960	5.55	Am.	1954
(2)	Am.	1960	5.58	Am.	1954
(6)	Am.	1960	5.60	Am.	1954
(9)	Am.	1956	5.65	Am.	1954
(10)	New	1960	5.76	New	1956
			5.76 to 5.79	New	1954

ARTICLES AFFECTED FROM 1949 TO 1963

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Ins. Code Art.	Effect	Vernon's Texas St.Supp.
6.01	Am.	1960	17.02	Am.	1956
6.02	Am.	1960	17.03	Am.	1956
6.04-6.08	Am.	1956	17.05	Am.	1954
6.08	Am.	1961	17.06	Am.	1954
6.09	Rep.	1964	17.06	Am.	1956
6.10	Rep.	1964	17.09	Am.	1956
6.12, § 6	Am.	1960	17.11	Am.	1954
7.01-7.18	Rep.	1958	17.11	Am.	1956
7.01	New	1960	17.16	Am.	1954
7.19-1	New	1960	17.16	Am.	1956
8.05	Am.	1956	17.17	Am.	1954
8.10	Am.	1956	17.22	Am.	1956
8.14	Am.	1960	17.25,		
8.18	Am.	1956	§ 1	Am.	1956
8.18	Am.	1961	§ 4	Am.	1954
8.19	Am.	1961	§ 5	Am.	1956
9.01	Am.	1956	§ 7	Am.	1954
9.01a	New	1958	§ 7	Rep.	1956
9.01-1	New	1961	§ 9	Am.	1954
9.02	Am.	1956	§ 9	Am.	1956
9.03	Am.	1956	§ 20	Am.	1956
9.06	Am.	1956	§ 22	New	1954
9.07	Am.	1956	§ 22	Rep.	1956
9.09	Am.	1958	18.04	Am.	1956
9.11	Am.	1956	18.05	Am.	1956
9.11	Am.	1960	18.07	Am.	1956
9.25	Am.	1956	18.09	Am.	1956
10.05	Am.	1960	18.11	Am.	1956
10.08	Am.	1956	18.23	Am.	1956
10.18	Am.	1960	19.02	Am.	1960
10.40, § 3	Am.	1956	19.03	Am.	1956
11.01	Am.	1956	19.06	Am.	1956
11.02	Am.	1954	19.10	Am.	1956
11.02	Am.	1956	19.10	Am.	1960
11.09	Am.	1960	19.11	Am.	1956
11.09	Rep.	1964	19.12	Am.	1956
11.10	Am.	1954	20.10	Am.	1960
11.10	Am.	1956	20.12	Am.	1960
11.11	Am.	1956	20.16	Am.	1960
11.12	Am.	1954	20.19	Am.	1960
11.12	Am.	1956	21.07,		
11.17	Am.	1954	§ 2	Am.	1960
11.17	Am.	1956	§ 3	Am.	1960
11.19	Am.	1956	§ 6	Am.	1956
11.19	Am.	1964	§ 7	Am.	1960
14.14a	New	1964	21.07-1	New	1956
14.17	Am.	1960	§ 8	Am.	1960
14.23	Am.	1961	§ 9	Am.	1960
14.61, § 1(c)	Am.	1956	21.07-2	New	1956
14.63	New	1956	21.09	Am.	1964
15.04	Am.	1956	21.11	Am.	1956
15.06	Am.	1956	21.14,		
15.08	Am.	1956	§ 3a	New	1964
15.11	Am.	1956	§ 8	Am.	1960
16.01, § 2	Am.	1956	§ 12	Am.	1960
16.06	Am.	1954	21.21	Am.	1958
16.06	Am.	1956	21.21-1	New	1961
16.07	Am.	1954	21.25	Am.	1961
16.11	Am.	1954	21.26	Am.	1960
			21.26	Am.	1961

VERNON'S TEXAS STATUTES

Ins. Code Art.	Effect	Vernon's Texas St.Supp.	Prob. Code Sec.	Effect	Vernon's Texas St.Supp.
21.28	Am.	1956	369,		
§ 8A	New	1964	(a) (2)	Am.	1961
§§ 8(e)-8(h)	Am.	1961	370	Am.	1958
21.32	Am.	1960	389(g)	New	1961
21.38,			390	Am.	1960
§ 2	Am.	1958	399	Am.	1958
§§ 5-7	Am.	1958	400	Am.	1958
21.39	Am.	1956	401	Am.	1958
21.43	Am.	1960	404A	New	1964
21.43	Am.	1964	407	Am.	1960
21.44	New	1956			
21.45	New	1956			
21.46 to 21.48	New	1958			
21.47	Am.	1961			
21.48	Rep.	1961			
22.01-22.21	New	1961			

TEXAS NON-PROFIT CORPORATION ACT

Formerly §§ 1.01 to 11.01. Now
Civil Statutes 1396—1.01 to 1396—
1101.

PROBATE CODE

Prob. Code Sec.	Effect	Vernon's Texas St.Supp.	Taxation- General Art.	Effect	Vernon's Texas St.Supp.
1-435	New	1956	1.01 to 24.01	New	1960
3(aa)	Am.	1958	1.07	Am.	1961
3(d)	Am.	1961	1.07A	New	1961
33	Am.	1958	1.07B	New	1961
46	Am.	1961	1.12	New	1961
53a	New	1961	1.13	New	1961
59	Am.	1961	2.01	Am.	1964
72	Am.	1960	3.03, §§ (1), (3), (4)	Am.	1961
78(c)	Am.	1958	3.08	Am.	1961
89	Am.	1961	3.11	New	1961
105a	Added	1961	4.01	Am.	1964
124	Am.	1958	4.02	Am.	1964
137(d)	Am.	1958	4.03, §§ (7), (10)	Am.	1961
144(d)	New	1958	4.06	Am.	1961
145	Am.	1958	5.01	Am.	1964
146	Am.	1958	5.03	Am.	1961
157	Am.	1958	6.01 to 6.08	Am.	1964
193	Am.	1958	6.09 to 6.12	Rep.	1964
194	Am.	1958	7.02(3)	New	1961
201	Am.	1958	7.15	Am.	1961
202	Am.	1958	8.03	Am.	1961
219	Rep.	1958	9.02(2)	Am.	1964
228	Am.	1958	9.03(3)	Am.	1961
236	Am.	1964	9.03(5)	New	1961
241	Am.	1958	9.13(5), (6)	Am.	1961
253	Am.	1958	9.13(6a)	New	1961
348(a)	Am.	1960	9.13(13)	Am.	1961
367,			9.13(14)	Am.	1961
(c) 7	Am.	1958	9.25	Am.	1961
(c) 7	Am.	1961	11.11	Am.	1961
(c) (7a)	New	1961	12.01	Am.	1961
(c) (8)	New	1961	12.02	Am.	1961
368(b)	Am.	1958	12.03	Am.	1961
			12.08	Am.	1961
			12.09	Am.	1961
			12.10	Am.	1961
			12.14	Am.	1961
			12.15	Am.	1961
			12.19, § (3)	Am.	1961
			12.21	Am.	1961
			12.21	Am.	1964
			13.02	Am.	1961
			13.03	Am.	1961
			13.08	Am.	1961
			14.06	Am.	1964

TAXATION—GENERAL

ARTICLES AFFECTED FROM 1949 TO 1963

Taxation- General			Vernon's Texas			P.C.			Vernon's Texas		
Art.	Effect	St.Supp.	Art.	Effect	St.Supp.	Art.	Effect	St.Supp.	Art.	Effect	St.Supp.
14.28	New	1964	306	Am.	1961	306	Am.	1961	306	Am.	1961
16.01	Am.	1964	353b	New	1950	353b	New	1950	353b	New	1950
17.04	Am.	1961	353c	New	1958	353c	New	1958	353c	New	1958
17.05(a)	Am.	1961	427a	Rep.	1958	427a	Rep.	1958	427a	Rep.	1958
17.05(c)	Am.	1961	430a	Rep.	1950	430a	Rep.	1950	430a	Rep.	1950
17.05(c)	Am.	1964	432	Am.	1950	432	Am.	1950	432	Am.	1950
17.11	New	1964	432	Am.	1952	432	Am.	1952	432	Am.	1952
18.03	Am.	1961	438c	Am.	1952	438c	Am.	1952	438c	Am.	1952
19.01			438d	New	1952	438d	New	1952	438d	New	1952
Subd. (2)	Am.	1962	474	Am.	1950	474	Am.	1950	474	Am.	1950
Subds. (5), (6)	Rep.	1964	480	Am.	1952	480	Am.	1952	480	Am.	1952
Subd. (10)	New	1964	483	Am.	1952	483	Am.	1952	483	Am.	1952
19.02, §§ (3), (5)	Am.	1961	483	Am.	1958	483	Am.	1958	483	Am.	1958
20.01-20.17	Am.	1961	489	Am.	1961	489	Am.	1961	489	Am.	1961
20.01 to 20.17	Am.	1964	489c	New	1950	489c	New	1950	489c	New	1950
20.01(h)	Am.	1961	§ 1	Am.	1958	§ 1	Am.	1958	§ 1	Am.	1958
21.04, § (1)	Am.	1961	519	Am.	1960	519	Am.	1960	519	Am.	1960
23.07	New	1961	527	Am.	1956	527	Am.	1956	527	Am.	1956
			527	Am.	1958	527	Am.	1958	527	Am.	1958
			527	Am.	1961	527	Am.	1961	527	Am.	1961
			527a	Am.	1956	527a	Am.	1956	527a	Am.	1956
			527b	Am.	1956	527b	Am.	1956	527b	Am.	1956
			534	Am.	1950	534	Am.	1950	534	Am.	1950
			534a	New	1950	534a	New	1950	534a	New	1950
			534a	Am.	1954	534a	Am.	1954	534a	Am.	1954
			535b	New	1950	535b	New	1950	535b	New	1950
			§ 2	Am.	1956	§ 2	Am.	1956	§ 2	Am.	1956
			535c	New	1950	535c	New	1950	535c	New	1950
			§ 2	Am.	1956	§ 2	Am.	1956	§ 2	Am.	1956
			535d	New	1950	535d	New	1950	535d	New	1950
			§ 3	Am.	1956	§ 3	Am.	1956	§ 3	Am.	1956
			567b	Am.	1952	567b	Am.	1952	567b	Am.	1952
			567b	Am.	1964	567b	Am.	1964	567b	Am.	1964
			§ 1a	New	1958	§ 1a	New	1958	§ 1a	New	1958
			590a	Rep.	1952	590a	Rep.	1952	590a	Rep.	1952
			599	Rep.	1964	599	Rep.	1964	599	Rep.	1964
			600	Rep.	1964	600	Rep.	1964	600	Rep.	1964
			602	Am.	1960	602	Am.	1960	602	Am.	1960
			602-A	New	1960	602-A	New	1960	602-A	New	1960
			614	Am.	1960	614	Am.	1960	614	Am.	1960
			614-2	Am.	1961	614-2	Am.	1961	614-2	Am.	1961
			642a	New	1952	642a	New	1952	642a	New	1952
			642b	New	1952	642b	New	1952	642b	New	1952
			642c	New	1952	642c	New	1952	642c	New	1952
			653	Rep.	1964	653	Rep.	1964	653	Rep.	1964
			666-3a	Am.	1950	666-3a	Am.	1950	666-3a	Am.	1950
			(7)	Am.	1960	(7)	Am.	1960	(7)	Am.	1960
			666-8	Am.	1958	666-8	Am.	1958	666-8	Am.	1958
			666-11			666-11			666-11		
			to			to			to		
			666-13	Am.	1950	666-13	Am.	1950	666-13	Am.	1950
			666-15	Am.	1950	666-15	Am.	1950	666-15	Am.	1950
			666-15	Am.	1952	666-15	Am.	1952	666-15	Am.	1952
			(1a)	Am.	1961	(1a)	Am.	1961	(1a)	Am.	1961
			(7)	Am.	1961	(7)	Am.	1961	(7)	Am.	1961
			(7a)	New	1961	(7a)	New	1961	(7a)	New	1961
			(7b)	New	1964	(7b)	New	1964	(7b)	New	1964
			666-15	Am.	1952	666-15	Am.	1952	666-15	Am.	1952
			(13)	Am.	1958	(13)	Am.	1958	(13)	Am.	1958
			(17)	Am.	1956	(17)	Am.	1956	(17)	Am.	1956
			666-15a1	Am.	1950	666-15a1	Am.	1950	666-15a1	Am.	1950

VERNON'S TEXAS STATUTES

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
666-15(c)	New	1961	667-17	Am.	1950
666-17	Am.	1950	667-19	Am.	1950
(1)	Am.	1952	667-19	Am.	1954
(1)	Am.	1954	667-19B	Am.	1950
(2)	Am.	1952	667-19B	Am.	1954
(3) (g)	New	1956	667-19C	New	1952
(14) (a)	Am.	1956	667-19D	New	1954
(15)	Am.	1952	667-20	Am.	1950
(22)	Am.	1954	667-23	Am.	1950
666-21	Am.	1952	667-23	Am.	1952
666-21	Am.	1960	667-23	Am.	1956
666-21a	Am.	1950	667-23 $\frac{1}{8}$	New	1960
666-21a	Am.	1952	667-23 $\frac{1}{4}$	New	1950
666-21 $\frac{1}{4}$	New	1956	667-23 $\frac{1}{4}$	Am.	1954
666-21 $\frac{1}{8}$	New	1952	667-23 $\frac{1}{2}$	Am.	1954
666-21 $\frac{1}{2}$	New	1950	667-23a	New	1950
666-23a(4)	Am.	1958	667-24a	Am.	1950
666-25b	New	1956	667-24 $\frac{1}{4}$	New	1952
666-27 $\frac{1}{2}$	New	1952	667-25	Am.	1954
666-30	Am.	1950	667-28		
666-32	Am.	1954	to		
666-32	Am.	1956	667-31	New	1950
666-32	Am.	1964	667-28	Am.	1961
666-33	Am.	1954	667-32	New	1954
666-36	Am.	1954	696a		
666-36 $\frac{1}{2}$	New	1950	§ 1(a, b)	Am.	1958
666-37	Am.	1954	§ 2	Am.	1964
666-37	Am.	1964	698b	Rep.	1961
666-39	Am.	1954	700b, § 2	Am.	1952
666-40	Am.	1954	701b	Rep.	1954
666-41a	Am.	1950	705b-1	Am.	1952
666-42	Am.	1950	705c, § 3a	New	1952
666-44	Rep.	1950	705c	Rep.	1956
666-45(d)	Am.	1960	705d	New	1956
666-49a	New	1950	706-709	Rep.	1961
666-50	New	1950	709	Am.	1952
666-51a	New	1950	712	Am.	1956
666-52	New	1950	717	Rep.	1961
666-52	Am.	1954	719e	New	1950
666-53			725b	Am.	1956
to			725b	Am.	1964
666-56	New	1950	§ 1	Am.	1954
666-57	New	1961	§ 4	Rep.	1954
667-2a	New	1958	§ 5	Am.	1954
667-3	Am.	1950	§ 9	Am.	1954
(a)	Am.	1960	§ 18a	New	1954
(a-1)	Am.	1961	§ 23	Am.	1954
(b)	Am.	1960	§ 23(1)	Am.	1961
(c)	Am.	1960	§ 23(2)	Am.	1958
(k)	New	1961	§ 24a	Rep.	1954
667-5	Am.	1950	725c	New	1954
667-5	Am.	1954	§ 1	Am.	1961
(1)	Am.	1961	§§ 3, 4	Am.	1956
667-5A	Rep.	1950	725d	New	1956
667-5A	New	1961	726	Rep.	1958
667-5B	New	1961	726-1	New	1958
667-6	Am.	1958	726-2	New	1958
667-7	Am.	1954	726b	New	1950
667-9	Am.	1954	§ 2	Am.	1956
667-10 $\frac{1}{2}$	Am.	1958	726b	Rep.	1960

ARTICLES AFFECTED FROM 1949 TO 1963

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
726c	New	1952	827a,		
§ 2(g)	Am.	1956	§ 3(a)	Am.	1956
§ 3(2) (b)	Am.	1956	§ 3(c)	Am.	1950
§ 3(2) (d)	Rep.	1956	§ 3(c)	Am.	1954
§ 6	Am.	1956	§ 3(c)	Am.	1956
§ 13	Am.	1956	§ 5	Am.	1952
726c	Rep.	1960	§ 5	Am.	1960
726d	New	1960	§ 5c	New	1958
734a,			§ 5½	New	1952
§ 9	Am.	1961	§ 5½	Am.	1960
§ 20	Am.	1952	§ 6	Am.	1952
§ 20	Am.	1961	§ 6	Am.	1954
§ 20a	New	1952	§ 8	Am.	1952
§ 22-A	Am.	1958	§ 8	Am.	1956
§ 26	Am.	1952	§ 8, subs. 1		
§ 27	Am.	1961	(b) (5)		662
734b	Am.	1954	§ 8, subs. 2A	New	1961
734b			827a-1	New	1952
§ 19	Am.	1964	827a-1	Rep.	1960
735	Am.	1952	827a-2	New	1954
740	Am.	1950	827a-2	Am.	1956
741	Am.	1950	827a-3	New	1956
741	Am.	1954	827a-4	New	1960
742-a to 742-c	New	1950	827a-5	New	1964
743	Am.	1954	827a-6		
744-a	New	1950	§§ 1-7	New	1964
744-b	New	1950	827a-8	Rep.	1964
747	Am.	1954	827b,		
751a	New	1961	§ 2A	New	1950
752c,			§ 2A	Am.	1954
§ 4	Am.	1950	§ 2A	Am.	1958
§ 4	Am.	1952	§ 3	Am.	1958
753	Am.	1952	827c-1	New	1964
753	Am.	1954	827e-1	New	1958
753	Am.	1958	827g	New	1964
(8)	New	1961	834	Rep.	1960
754	Am.	1954	861b	New	1958
754a	Am.	1952	872	Am.	1961
(2)	Am.	1954	872f	New	1950
(5)	New	1956	879f-6	New	1952
(6)	New	1960	879g-2a	Am.	1950
(7)	New	1960	879g-2a	Am.	1960
754b	New	1950	879g-4	New	1960
754b	Am.	1952	879h-1		
754c	New	1960	to		
759-762a	Rep.	1954	879h-5	New	1960
778	Am.	1952	879h-1 note	Am.	1961
778a	Am.	1952	880	Am.	1950
779	Am.	1952	880	Am.	1954
782b	New	1960	880	Am.	1958
782c	New	1964	§ 1	Am.	1961
782d	New	1964	880a	New	1958
802	Am.	1954	880a	Am.	1961
802a-1	New	1956	880b	New	1958
802b	Am.	1952	880c	New	1960
802d	New	1952	881b,		
802e	New	1958	§ 1	Am.	1961
821a	New	1960	882a	New	1954
827a,			888	Am.	1958
§ 2	Am.	1950	892	Am.	1964
§ 3(a)	Am.	1954	893	Am.	1954

VERNON'S TEXAS STATUTES

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
895a	New	1950	978k-1	New	1958
895b	New	1952	978l-2,		
§ 2	Am.	1954	§ 4	Am.	1964
895c	New	1958	§§ 16, 17	Rep.	1960
§ 6	Am.	1961	§ 19	Am.	1960
896	Am.	1964	978l-5	New	1950
901	Am.	1961	§ 4	Am.	1952
908	Am.	1954	978l-6	New	1950
908	Am.	1956	978l-7	New	1961
908	Am.	1960	978l-8	New	1964
908(g)	Am.	1964	978n-1	New	1950
912	Am.	1952	§ 1	Am.	1960
923b	Rep.	1958	§ 1	Am.	1961
923f-1	New	1961	§ 7	Am.	1960
923l-1	Am.	1950	978o	New	1954
923m	Am.	1958	1042b, § 3	Am.	1954
923m			1054	Am.	1964
§ 1	Am.	1964	1083a	Am.	1952
§ 4	Am.	1960	1083a	Rep.*	1956
923x	New	1961	1106(b)	Am.	1956
924a	New	1956	(c)	New	1952
933a	Rep.	1964	1106a	Am.	1961
934a,			1111a	Rep.	1960
§ 3(1)	Am.	1964	1111d,		
§ 3, subs. 5			§ 2	Am.	1952
(a, b)	Rep.	1960	§ 4	Am.	1952
934b-1	Rep.	1950	§ 5	Am.	1952
934b-2	New	1950	§ 5½	New	1950
§ 2	Am.	1964	§ 7a	New	1954
§ 3	Am.	1964	1111d	Rep.	1960
934b-3	New	1964	1111m	New	1956
934c	New	1952	1112a	Rep.	1954
§ 5	Am.	1960	1129a	Rep.	1964
941b	New	1950	1134-1136	Rep.	1964
941b	Am.	1961	1136a-1 to 1136a-		
941-2	New	1960	9	Rep.	1964
§ 1	Am.	1960	1137b-1	New	1964
952aa-4	New	1960	1137e-1	New	1961
952l-7	Am.	1950	1137m	New	1956
952l-11,			1137m	Rep.	1960
§ 1(3)	Rep.	1960	1137n	New	1960
§ 1(5)	Rep.	1960	1137o	New	1964
§ 1c	New	1950	1146a	New	1950
§ 1c	Am.	1958	1147	Am.	1950
952l-12	New	1964	1147	Am.	1956
954	Am.	1961	1148	Am.	1950
978d-1	New	1964	1160,		
978e-1	New	1964	§ 1	Am.	1961
978f-3	New	1952	1260a	New	1950
978f-3a	New	1964	1318	Am.	1964
978f-3b	New	1964	1321a	New	1952
978f-4	New	1954	1321b	New	1952
978f-5	New	1956	1333A	New	1950
978f-6	New	1960	1334	Am.	1961
978h, § 2	Am.	1956	1334a	New	1961
978k			1341	Am.	1960
§ 9	Am.	1964	1344-1346	Rep.	1952
§ 11a	New	1958	1350	Am.	1952
			subd. 1	Am.	1958

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

ARTICLES AFFECTED FROM 1949 TO 1963

P.C. Art.	Effect	Vernon's Texas St.Supp.	P.C. Art.	Effect	Vernon's Texas St.Supp.
1351a, § 1-b	New	1954	1525b-3	New	1961
1370	Am.	1950	1525g	New	1961
1370a	Am.	1960	1526-1532	Rep.	1954
1377	Am.	1950	1538	Am.	1960
1377	Rep.	1960	1545	Am.	1960
1377b	New	1960	1551	Am.	1964
§ 4	Am.	1964	1554a	New	1960
1378a, §§ 11-13	Am.	1952	1555b	New	1960
1379	Am.	1954	§§ 1-4	Am.	1964
1379	Am.	1961	§ 5	New	1964
1398	Am.	1952	1577	Am.	1964
1402a	New	1956	1578a	Am.	1964
1402b	New	1964	1578b	New	1964
1404b	New	1952	1583(6)	Rep.	1956
1404b	Am.	1956	1583	Rep.	1960
1429	Am.	1964	1583-1,		
1435a	New	1958	§ 3a	New	1952
1436-1,			§ 6	Am.	1956
§ 1	Am.	1960	§ 6	Am.	1960
§ 2b	New	1960	§ 6A	New	1960
§ 2c	New	1960	§ 6B	New	1960
§§ 7-9	Am.	1952	§ 7	Am.	1952
§ 30(a)	New	1956	1583-2	Am.	1950
§ 49(e)	Am.	1960	§ 1	Am.	1952
§ 57	Am.	1952	§ 1	Am.	1954
§ 57	Am.	1956	§ 1-a	Rep.	1952
§ 57a	New	1956	1593a	Rep.	1950
1436-2	New	1961	1648a	New	1958
1436b,			§ 1	Am.	1961
§ 3	Am.	1964	§§ 3, 4	Am.	1961
§ 3(a)	Am.	1964	§§ 5, 6	Am.	1961
§ 3(b)	Am.	1964	§ 8	Am.	1961
1436c	New	1952	1690b,		
1436d	New	1954	(d)	Am.	1956
1436e	New	1960	(j)	Am.	1956
1436f	New	1961	(k)	Am.	1956
1442c	New	1961	1690e	New	1961
1456a	New	1956	1693	Am.	1954
§ 1	Am.	1961	1700	New	1954
§ [5]	New	1961	1700a-3	Am.	1964
1477	Am.	1952	1709 to 1720	Rep.	1961
1489	Am.	1954	1712	Am.	1950
1492	Am.	1954	1716(1)	Am.	1952
1493	Am.	1954	1721	New	1950
1505a	New	1960	1721A	New	1956
1505b	New	1964	1722	New	1952
1522	Am.	1964	1722a	New	1960
1525b,			§ 4(f)	Am.	1960
§ 1(a)	New	1964	§ 15	Am.	1964
§ 9	Am.	1961	§ 15(a)	Am.	1961
§ 10	Am.	1961	1723	New	1952
1525b,			1723a	New	1964
§ 11	Am.	1961	1724	New	1958
§ 13	Am.	1961	1725	New	1958
§ 22	Am.	1960	§ 5, par. D	Am.	1964
§ 22a	New	1954			
§ 22a	Am.	1960			
§ 22b	New	1954			
§ 23A	New	1960			
1525b-1	New	1960			
1525b-2	New	1960			

CODE OF CRIMINAL PROCEDURE

C.C.P. Art.	Effect	Vernon's Texas St.Supp.
10a	Am.	1960

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C.C.P. Art.	Effect	Vernon's Texas St.Supp.	C.C.P. Art.	Effect	Vernon's Texas St.Supp.
12	Am.	1960	601—A	Am.	1950
43	Am.	1961	601—A	Am.	1958
52—1 note	Am	1952	623	Am.	1956
52—8 note	New	1952	658	Am.	1954
52—24b	New	1956	659	Am.	1954
52—24c	New	1956	662	Rep.	1954
52—61a	New	1958	663	Rep.	1954
52—61a	Am.	1964	667	Am.	1954
52—82	Am.	1964	670	Am.	1956
52—158a	New	1952	678	Am.	1954
52—158b	New	1960	727a	Am.	1954
52—159a	New	1952	732a	New	1952
52—159b	New	1956	733a	New	1961
§ 13—A	New	1960	755	Am.	1952
52—159c	New	1961	759a	New	1952
52—160a, § 5	New	1956	§ 1(D)	Am.	1954
52—160b	New	1950	§ 2	Am.	1954
52—160b	Am.	1964	§ 2	Am.	1956
52—161			§ 3	Rep.	1956
§§ 12—15a	Rep.	1964	§ 4	Am.	1960
§ 15a	New	1954	§ 5	Am.	1960
§ 16	Rep.	1964	760d	New	1952
177	Am.	1960	760d	Am.	1960
271c	New	1958	760e	New	1952
§ 4	Am.	1958	768	Am.	1958
§ 6	Am.	1958	775a	Rep.	1958
275a	New	1958	781b	Rep.	1958
277, § 2	New	1952	§ 17	Rep.	1954
332a	New	1954	781b—1	New	1956
333	Am.	1952	781b—2	New	1956
338	Am.	1952	781c	New	1952
338b	New	1952	781d	New	1958
348	Am.	1952	§ 6	Am.	1960
367c—1	Am.	1964	802	Am.	1952
367f	New	1950	807	Am.	1957
367g	New	1950	809	Am.	1950
367h	New	1952	921—932	Rep.	1958
367i	New	1956	932—1	New	1958
367j	New	1958	932—2	New	1958
367k	New	1960	932a	Rep.	1958
408a	New	1960	932b	New	1958
486a	New	1952	959—966	Rep.	1958
494	Am.	1958	970b	New	1954
494	Am.	1960	989a	New	1956
494a	New	1952	§ 1	Am.	1961
494a	Am.	1960	§ 1	Am.	1964
§ 1A	Rep.	1960	§ 12	Am.	1961
494b	New	1952	1008a	New	1952
501	Am.	1960	1036,		
502	Am.	1960	(4)	Am.	1961
505	Am.	1960	1038	Am.	1954
517	Am.	1960	1052	Am.	1950
518	Am.	1960	1052	Am.	1954
519	Am.	1960	1056	Am.	1954
563	Am.	1954	1056	Am.	1956
564	Am.	1954	1058	Am.	1952
582	Am.	1960	1061	Am.	1956
591	Am.	1956	1068	Am.	1956
591	Am.	1958	1070	Am.	1956
597	Am.	1952	1074	Am.	1954
597	Am.	1958			

JUDGES AND OFFICERS

SUPREME COURT

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FRANK P. CULVER, JR., ASSOCIATE JUSTICE ROBERT W. HAMILTON, ASSOCIATE JUSTICE
RUEL C. WALKER, ASSOCIATE JUSTICE ZOLLIE STEAKLEY, ASSOCIATE JUSTICE
GEORGE H. TEMPLIN, CLERK
CARL B. LYDA, CHIEF DEPUTY CLERK

COURT OF CRIMINAL APPEALS

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

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

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MRS. K. M. BURKHALTER, CLERK
LIDA SWANSON, DEPUTY CLERK

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ROBERT G. HUGHES, ASSOCIATE JUSTICE JOHN C. PHILLIPS, ASSOCIATE JUSTICE
MRS. MAURICE WOODLAND, CLERK

Fourth District—San Antonio

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JUDGES AND OFFICERS
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Sixth District—Texarkana

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LOUISE GILMER, CLERK

Seventh District—Amarillo

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ERNEST O. NORTHCUTT, ASSOCIATE JUSTICE
ALTON B. CHAPMAN, ASSOCIATE JUSTICE
ELMO PAYNE, CLERK

Eighth District—El Paso

ALAN R. FRASER, CHIEF JUSTICE
WILLIAM E. CLAYTON, ASSOCIATE JUSTICE STEPHEN F. PRESLAR, ASSOCIATE JUSTICE
E. J. REDDING, CLERK

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W. T. McNEILL, ASSOCIATE JUSTICE HOMER E. STEPHENSON, ASSOCIATE JUSTICE
ELIZABETH LE BLANC, CLERK

Tenth District—Waco

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

Eleventh District—Eastland

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

Twelfth District—Tyler

OTIS T. DUNAGAN, CHIEF JUSTICE
GROVER SELLERS, ASSOCIATE JUSTICE JAMES H. MOORE, ASSOCIATE JUSTICE
THOMAS E. WALL, CLERK

Thirteenth District—Corpus Christi

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WAGGONER CARR, ATTORNEY GENERAL

**OFFICIALS
OF
THE STATE OF TEXAS**

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PRESTON SMITH -----Lieutenant Governor -----Lubbock
WAGGONER CARR -----Attorney General -----Lubbock
CRAWFORD C. MARTIN --Secretary of State -----Hillsboro
JESSE JAMES -----State Treasurer -----Austin
JOHN C. WHITE -----Commissioner of Agriculture ----Wichita Falls
JERRY SADLER -----Commissioner of General Land Office --Palestine
ROBERT S. CALVERT ----Comptroller of Public Accounts -----Austin
JAMES M. FALKNER ----Banking Commissioner -----Austin
CHARLES H. CAVNESS --State Auditor -----Austin

*

SENATE

PRESIDENT -----Preston Smith
 PRESIDENT PRO TEMPORE -----Martin Dies
 SECRETARY OF THE SENATE -----Charles A. Schnabel, Jr.

<i>Name</i>	<i>Dist.</i>
Aikin, A. M., Jr. -----Box 385 -----Paris -----	1
Bates, Jim -----521 S. Closner -----Edinburg -----	27
Blanchard, H. J. "Doc" --501 Great Plains Life Bldg. -----Lubbock -----	28
Calhoun, Galloway, Jr. ---Box 296 -----Tyler -----	7
Cole, Criss -----Suite 1320, Melrose Bldg. -----Houston -----	6
Colson, Mrs. Neveille H. .202 Brewer -----Navasota -----	5
Creighton, Tom -----Box 546 -----Mineral Wells -----	22
Crump, Louis -----Box 417 -----San Saba -----	16
Dies, Martin, Jr. -----Box 1196 -----Lufkin -----	3
Hall, Ralph M. -----309 Star St. -----Rockwall -----	9
Hardeman, Dorsey B. ----P. O. Drawer 1588 --San Angelo -----	25
Harrington, D. Roy -----4007 3rd St. -----Port Arthur -----	4
Hazlewood, Grady -----518 Petroleum Bldg. Amarillo -----	31
Herring, Charles F. -----Perry-Brooks Bldg. Austin -----	14
Kazen, Abraham, Jr. ----Raymond Bldg. -----Laredo -----	21
Kennard, Don -----4032 Eldridge -----Ft. Worth -----	10
Krueger, Culp -----Box 1390 -----El Campo -----	15
Moffett, George -----Box 768 -----Chillicothe -----	23
Moore, William T. -----Box 1187 -----Bryan -----	11
Owen, Frank, III -----1304 Bassett Tower--El Paso -----	29
Parkhouse, George -----3505 Turtle Creek Rd. -----Dallas -----	8
Patman, William N. (Bill)Box 665 -----Ganado -----	18
Ratliff, David W. -----Box 1123 -----Stamford -----	24
Reagan, Bruce A. -----3126 Topeka -----Corpus Christi -----	20
Richter, Walter H. -----Box 23 -----Gonzales -----	19
Rogers, Andy -----200 N. Main -----Childress -----	30
Schwartz, A. R. -----102 National Hotel Bldg. -----Galveston -----	17
Spears, Franklin -----625 Natl. Bk. of Com- merce Bldg. -----San Antonio -----	26
Strong, Jack -----Box 1389 -----Longview -----	2
Watson, Murray, Jr. -----1202 Amicable Bldg.--Waco -----	13
Word, J. P. -----Box 466 -----Meridian -----	12

*

HOUSE OF REPRESENTATIVES

SPEAKER ----- Byron M. Tunnell
 CHIEF CLERK ----- Mrs. Dorothy Hallman

<i>Name</i>	<i>Dist.</i>
Adams, J. Collier ----- 1309 Texas Avenue -- Lubbock -----	88-2
Alaniz, John C. ----- 801 Tower Life Bldg. San Antonio -----	68-7
Allen, John ----- 1003 East Birdsong -- Longview -----	13
Arledge, Roy ----- Box 568 ----- Stamford -----	83
Atwell, Ben ----- 1002 Dallas Fed. Sav- ings Bldg. ----- Dallas -----	51-2
Ball, Maurice B. ----- Box 88 ----- Hutchins -----	51-4
Banfield, Myra ----- Box 687 ----- Rosenberg -----	30
Barnes, Ben ----- Route 1 ----- De Leon -----	64
Bass, R. W. (Bob) ----- ----- DeKalb -----	1
Bass, Tom ----- 3437 N. Parkwood -- Houston -----	22-7
Beckham, Vernon ----- 112 South Rusk Ave. Denison -----	48
Berry, V. E. (Red) ----- 856 Gemblar ----- San Antonio -----	68-4
Birkner, Otha ----- 2215 Tenth Street -- Bay City -----	32
Blaine, John E. (Ned) ----- 4855 Vista Del Monte El Paso -----	74-2
Boysen, Stanley ----- Box 228 ----- Yoakum -----	47
Bridges, Ronald W. ----- Box 6031 ----- Corpus Christi -----	36-1
Brooks, Chet ----- Box 630 ----- Pasadena -----	22-12
Brown, Don ----- Rt. 2, Box 570 ----- Hitchcock -----	21-2
Brown, Raleigh ----- Box 244 ----- Abilene -----	84-2
Butler, Jerry ----- Box 601 ----- Kenedy -----	58
Cain, Pat ----- 6808 Notre Dame Dr. Austin -----	55-2
Caldwell, Neil ----- Angleton Savings Annex ----- Angleton -----	23
Canales, Amando F. ----- Box 298 ----- San Diego -----	70
Cannon, Joe ----- Box 109, Groesbeck -- (Mexia) (Home Town) -----	27
Carpenter, Ed J. ----- Vincent Rt. ----- Coahoma -----	78
Carriker, Max D. ----- Box 545 ----- Roby -----	80
Cavness, Don W. ----- 818-a Brentwood -- Austin -----	55-3
Chapman, Joe N. ----- Box 233 ----- Sulphur Springs -----	11
Cherry, Dick ----- 4112 N. 27th St. -- Waco -----	43-3
Clayton, Bill ----- Box 38 ----- Springlake -----	91
Cole, James D. ----- Box 331 ----- Greenville -----	24
Collins, Sam F. ----- Box 36 ----- Newton -----	7
Cook, George H. ----- 3513 Mankins ----- Odessa -----	76
Cory, R. H. (Dick) ----- 200 Victoria Nat'l. Bank Bldg. ----- Victoria -----	33
Cotten, James M. ----- 110 College ----- Weatherford -----	62
Coughran, Wm. (Bill) Jr. ----- 1321 Highland -- McAllen -----	38-2
Cowden, George ----- 1401 Jefferson Ave. -- Waco -----	43-2
Cowles, Nelson ----- Box 167 ----- Hallsville -----	3
Crain, Jack ----- Box 367 ----- Nocona -----	61
Crews, David ----- Kahn Trust Bldg. -- Conroe -----	18

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
Davis, William S. 1605 Midkiff, Apt. 246	Midland 77
de la Garza, E. "Kika" 804 Pecan St.	McAllen 38-3
Doke, Maurice 4727 Lake Shore Dr.	Wichita Falls 81-2
Duggan, Lee 3520 Montrose Blvd.	Houston 22-9
Dungan, W. T. Box 369	McKinney 50
Eckhardt, Bob 1402 American In- vestors Bldg.	Houston 22-2
Edwards, E. M. Route 1	Pattonville 10
Esquivel, Rudy 1010 Tower Life Bldg.	San Antonio 68-2
Fairchild, Robert Box 772	Center 5
Finney, Dave 2800 N.W. 30th St.	Fort Worth 60-7
Fletcher, Henry 408 Pierce St.	Luling 56
Floyd, Paul 505 Melrose Bldg.	Houston 22-1
Fondren, Gene N. Box 192	Taylor 54
Foreman, Wilson Rt. 4, Box 281-A	Austin 55-1
Garrison, Don 3816 Fannin	Houston 22-4
Gibbens, Wayne Box 828	Breckenridge 63
Gladden, Don 504 Burk Burnett Bldg.	Fort Worth 60-2
Glenn, Allen Box 1316	Abilene 84-1
Green, Howard Box 13214	Fort Worth 60-6
Grover, Henry C. 1510 Marshall St.	Houston 22-3
Guffey, Lloyd M. House of Represen- tatives, Austin ... (El Campo)	31
Haines, David G. 406 Woodson Drive ..	Bryan 28
Hallmark, A. C. 902 Peach Street ...	Dalhart 92
Harding, Forrest A. 607 Central Nat'l. Bank Bldg.	San Angelo 79
Haring, Paul B. Ho. of Rep., Austin ..	(Goliad) 34
Harris, Ed J. 1305—24th St.	Galveston 21-1
Harris, O. H. "Ike" 3440 McFarlin Blvd.	Dallas 51-3
Haynes, Clyde, Jr. Box 1235	Vidor 8
Heatly, W. S. (Bill) Drawer 1	Paducah 82
Hefton, Don 900 W. College	Sherman 49 F
Hendryx, Gene Box 779	Alpine 72
Hinson, George T. Box 387	Mineola 12
Hollowell, Bill 618 High Street	Grand Saline 26
Houston, Horace B., Jr. ... 3561 Green Acres ..	Dallas 51-1
Hughes, Robert H. 617 Davis Bldg.	Dallas 51-7
Isaacks, Maud (Miss) 3021 Federal Avenue ..	El Paso 74-1
Jamison, Alonzo W. 616 W. Oak Street ...	Denton 59
Jarvis, Ben 460 Fair Foundation Bldg.	Tyler 14
Johnson, Bob 1505 Dallas Fed. Sav- ings Bldg.	Dallas 51-6
Johnson, Jake Route 7, Box 219	San Antonio 68-1
Kilpatrick, Rufus Box 968	Beaumont 9-1
Klager, James (Jim) 323 Wilson Bldg.	Corpus Christi 36-3

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
Knapp, Walter ----- 804 Bryan -----	Amarillo ----- 93-1
Koliba, Homer L., Sr. --- Box 564 -----	Columbus ----- 46
Kothmann, Glenn ----- 4610 Seabreeze -----	San Antonio ----- 68-5
Lack, Emmett ----- Route 2, Box 15 -----	Kountze ----- 19
Ligarde, Honore ----- Mayo Bldg., Wash- ington at Juarez -----	Laredo ----- 69
McClinton, Travis V. --- -----	Oglesby ----- 53
McDonald, Felix ----- 210 South Closner ---	Edinburg ----- 38-1
McDonald, Guy ----- Box 1198 -----	Henderson ----- 4
McGregor, Malcolm ----- 901 Bassett Tower ---	El Paso ----- 74-4
Mellhany, Grainger ----- Box 276 -----	Wheeler ----- 87
McLaughlin, Jack ----- 4817 Green Oak Dr. ---	Fort Worth ----- 60-1
McNutt, Ray E. ----- Box 10140 -----	El Paso ----- 74-5
Macatee, George P. ----- 3916 Shannon Lane ---	Dallas ----- 51-9
Mann, Dudley R., Jr. --- 915 1st Nat'l. Bldg. ---	El Paso ----- 74-3
Markgraf, Jim ----- Route 1 -----	Scurry ----- 25
Miller, W. H. ----- 2444 Times Blvd. ---	Houston ----- 22-5
Morgan, Richard L. (Dick) 3807 Walnut Hill ---	Dallas ----- 51-5
Moyer, Hudson ----- Petroleum Bldg. ---	Amarillo ----- 93-2
Murray, Menton J. ----- 320 E. Van Buren ---	Harlingen ----- 39-1
Mutscher, G. F. (Gus) --- 2501 Sabine Street, Austin -----	(Brenham) ----- 29
Niemeyer, H. O. ----- Box 257 -----	Knippa ----- 67
Nugent, James E. ----- 703½ Water St. ---	Kerrville ----- 66
Parker, Carl A. ----- 449 Stadium Road ---	Port Arthur ----- 9-3
Parmer, Hugh ----- 2623 E. Vickery Blvd. ---	Fort Worth ----- 60-3
Parsley, Bill J. ----- 1307 Avenue L. ---	Lubbock ----- 88-3
Pearcy, C. W., Jr. ----- 1st Natl. Bank Bldg. ---	Temple ----- 44-2
Peeler, Travis A. ----- 2802 S. Staples ---	Corpus Christi ----- 36-2
Pendleton, R. G. (Randy) Box 2097 -----	Andrews ----- 75
Petty, Olen R. ----- Box 697 -----	Levelland ----- 90
Pipkin, Maurice S. ----- 401 1st National Bank	Brownsville ----- 39-2
Price, Rayford ----- 804—B E. 32½, Aus- tin -----	(Frankston) (Home Town) ----- 16
Quilliam, W. Reed, Jr. --- 2217—50th St. ---	Lubbock ----- 88-1
Rapp, Bill ----- Box 897 -----	Raymondville ----- 40 F
Richards, George H. --- Box 168 -----	Huntsville ----- 17
Richardson, George "Skeet" ----- 1326 N. Main -----	Fort Worth ----- 60-4
Ritter, Jack, Jr. ----- 1410 Corona Dr. ---	Austin ----- 55-4
Roberts, Ronald E. ----- 627 E. Elm Street ---	Hillsboro ----- 42
Rodriguez, Lindsey ----- Box 218 -----	Hidalgo ----- 37 F
Rosson, Renal B. ----- West Texas State Bank Bldg. -----	Snyder ----- 85
Satterwhite, Bill ----- Box 296 -----	Ennis ----- 41
Schiller, Milton ----- Box 108 -----	Cameron ----- 45
Scoggins, Charles R. --- 6065 Orms Drive ---	Corpus Christi ----- 36-4
Segrest, C. Jim ----- 3810 E. Palfrey ---	San Antonio ----- 68-6
Shannon, Tommy ----- Box 3098 -----	Fort Worth ----- 60-5

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>Dist.</i>
ShIPLEY, Donald K. -----1710 American Inves- tors Bldg. -----Houston -----	22-6
SHUTT, Herbert E. -----4310 Dunlay -----Houston -----	22-11
SIMPSON, J. M. -----2215 Bowie -----Amarillo -----	94 F
SLACK, Richard C. -----Box 808 -----Pecos -----	73
SLIDER, James L. -----Box 184 -----Naples -----	2
SMITH, Stanford -----101 W. Mistletoe ---San Antonio -----	68-3
SMITH, Will L. -----336 Bowie St. -----Beaumont -----	9-4
STEWART, Vernon J. -----2901 Lebanon St. ---Wichita Falls -----	81-1
STOLLENWERCK, Henry -----4028 Glenwick Lane Dallas -----	51-8
THOMPSON, Fritz -----Box 1205 -----Borger -----	86
THURMOND, Roger H., Jr. ---Box 1268 -----Del Rio -----	71
TOWNSEND, Terry -----Commercial Nat'l. Bank Bldg. -----Brady -----	65
TRAEGER, John A. -----110 South Austin ---Seguin -----	57
TUNNELL, Byron M. -----608 Perry-Brooks Bldg. -----Austin (Tyler) -----	15 F
WALKER, Bill -----124 W. Houston St. ---Cleveland -----	20
WARD, J. E. -----Box 458 -----Glen Rose -----	52
WELDON, J. D. -----1937 Ninth Street ---Port Arthur -----	9-2
WELLS, H. G. -----Box 146 -----Tulia -----	89
WHATLEY, Willis J. -----9418 Bevlyn -----Houston -----	22-10
WHEELER, Charles A., Jr. ---1317 South Second ---Temple -----	44-1
WHITFIELD, J. Charles -----901 State Natl. Bldg.. Houston -----	22-8
WIETING, Leroy J. -----Box 546 -----Portland -----	35
WILSON, Charles N. -----207 Angelina Bldg..Lufkin -----	6
WOODS, Jack -----2800 Old Robinson Rd. -----Waco -----	43-1

CONSTITUTION OF THE STATE OF TEXAS

ADOPTED

ARTICLE III

LEGISLATIVE DEPARTMENT

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

Sec. 49-b. There is hereby created a Board to be known as the Veterans' Land Board, which shall be composed of the Commissioner of the General Land Office, and two citizens of the State who shall be appointed by the Governor with the advice and consent of the Senate. The Governor shall biennially appoint one such member to serve for a term of four years, with the initial appointments to the Board under this section to be for terms of two and four years, respectively, and all subsequent appointments to be according to provisions of this section. One such appointive member shall be well versed in veterans' affairs and the other such appointive member shall be well versed in finances. The Commissioner of the General Land Office shall act as Chairman of the Board and shall be the administrator of the Veterans' Land Program under such terms and restrictions as may be now or hereafter provided by law. The compensation for said appointive members shall be as fixed by the Legislature, and each shall make bond in such amount as may be prescribed by the Legislature. The Veterans' Land Board may issue not to exceed Two Hundred Million Dollars (\$200,000,000) in bonds or obligations of the State of Texas for the purpose of creating a fund to be known as the Veterans' Land Fund. Such bonds shall be executed by said Board as an obligation of the State of Texas, in such form, denominations, and upon the terms as are now provided by law or as may hereafter be provided by law; provided, however, that said bonds shall bear a rate of interest not to exceed three per cent (3%) per annum, and that the same shall be sold for not less than par value and accrued interest.

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

The Veterans' Land Fund shall be used by the Board for the sole purpose of purchasing lands suitable for the purpose hereinafter stated, situated in this State, (a) owned by the United States, or any governmental agency thereof; (b) owned by the Texas Prison System, or any other governmental agency of the State of Texas; or (c) owned by any person, firm, or corporation. Provided, however, the portion of the Vet-

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erans' Land Fund not immediately committed for the purchase of lands may be invested in short term United States bonds or obligations until such funds are needed for the purchase of lands. The interest accruing thereon shall become a part of the Veterans' Land Fund.

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

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

All monies received and which have been received under the Constitutional Amendment as adopted by the people of Texas at the election held on November 13, 1951, and which have not been used for repurchase of land as provided herein by the Veterans' Land Board from the sale of lands and for interest on deferred payments, shall be credited to the Veterans' Land Fund for use in purchasing additional lands to be sold to Texas veterans of World War II, and to Texas veterans of service in the armed forces of the United States of America subsequent to 1945, as may be included within this program by legislative Act, in like manner as provided for the sale of lands purchased with the proceeds from the sales of the bonds, provided for herein, for a period ending December 1, 1959; provided, however, that so much of such monies as may be necessary during the period ending December 1, 1959, to pay the principal of and interest on the bonds heretofore issued and on bonds hereafter issued by the Veterans' Land Board, shall be set aside for that purpose. After December 1, 1959, all monies received by the Veterans' Land Board from the sale of the lands and interest on deferred payments, or so much thereof as may be necessary, shall be set aside for the retirement of bonds heretofore issued and to pay interest thereon, and any of such monies not so needed shall not later than the maturity date of the last maturing bond or bonds be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law. All bonds issued hereunder shall, after approval by the Attorney General of Texas, registration by the Comptroller of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute obligations of the State under the Constitution of Texas. Of the total Two Hundred Million Dollars (\$200,000,000) of bonds herein authorized, the sum of One Hundred Million Dollars (\$100,000,000) has heretofore been issued; said bonds heretofore issued are hereby in all respects validated and declared to be obligations of the State of Texas.

The additional bonds herein authorized may be sold in such installments as deemed necessary and advisable by the Veterans' Land Board. All monies received from the sale of land and for interest on deferred payments on land purchased with the proceeds of such additional bonds, shall be credited to the Veterans' Land Fund for use in purchasing additional lands to be sold to Texas veterans, as herein provided, in like manner as provided for the sale of lands purchased with the proceeds from the sales of the bonds provided for herein, for a period ending December 1, 1965; provided, however, that so much of such monies as may be necessary to pay interest on the additional bonds herein provided for shall be set aside for that purpose. After December 1, 1965, all monies received by the

CONSTITUTION

Veterans' Land Board from the sale of the lands and interest on payments, or so much thereof as may be necessary, shall be set aside for the retirement of said additional bonds and to pay interest thereon, and any of such monies not so needed shall not later than the maturity date of the last maturing bond be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law.

The foregoing notwithstanding, bonds hereafter issued by the Veterans' Land Board pursuant to the authority of this Section 49-b of the Constitution may bear a rate or rates of interest not to exceed three and one-half percent ($3\frac{1}{2}\%$) per annum.

The foregoing notwithstanding, any lands in the Veterans Land Fund which have been first offered for resale to veterans and which have not been sold may be resold to such purchasers, in such quantities, and on such terms, and at such prices and rates of interest, and under such rules and regulations as are now provided by law, or as may hereafter be provided by law. As amended Nov. 6, 1956; Nov. 8, 1960; Nov. 6, 1962.

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

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

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

CONSTITUTION

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

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

Should the Legislature enact enabling laws in anticipation of the adoption of this Amendment, such Acts shall not be void by reason of their anticipatory character. Added Nov. 6, 1962.

§ 51-a. Payment of Assistance to Needy Aged, Needy Blind and Needy Children

Sec. 51-a. The Legislature shall have the power, by General Laws, to provide, subject to limitations and restrictions herein contained, and such other limitations, restrictions and regulations as may by the Legislature be deemed expedient, for assistance to, and for the payment of assistance to:

(1) Needy aged persons who are actual bona fide citizens of Texas, and who are over the age of sixty-five (65) years; provided that no such assistance shall be paid to any inmate of any state-supported institution, while such inmate; provided that the Legislature shall prescribe the residence requirements for eligibility; provided that the maximum amount paid out of state funds to any individual recipient shall not exceed the amount that is matchable out of federal funds; and provided further, that the total amount of such assistance payments out of state funds on behalf of such recipients shall not exceed the amount that is matchable out of federal funds.

(2) Needy individuals, who are citizens of the United States, who shall have passed their eighteenth (18th) birthday but have not passed their sixty-fifth (65th) birthday, who are totally and permanently disabled by reason of a mental or physical handicap or a combination of physical and mental handicaps and not feasible for vocational rehabilitation; provided that the Legislature shall prescribe the residence requirements for eligibility; provided further, that no individual shall receive assistance under this program for the permanently and totally disabled during any

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period when he is receiving Old Age Assistance, Aid to the Needy Blind, or Aid to Dependent Children, nor while he is residing permanently in any completely state-supported institution; provided that the maximum amount paid out of state funds to any individual recipient shall not exceed the amount that is matchable out of federal funds; and provided further, that the total amount of such assistance payments out of state funds on behalf of such recipients shall not exceed the amount that is matchable out of federal funds.

(3) Needy blind persons who are actual bona fide citizens of Texas, and are over the age of twenty-one (21) years; provided that no such assistance shall be paid to any inmate of any state-supported institution, while such inmate; provided that the Legislature shall prescribe the residence requirements for eligibility; provided that the maximum amount paid out of state funds to any individual recipient shall not exceed the amount that is matchable out of federal funds; and provided further, that the total amount of such assistance payments out of state funds on behalf of such recipients shall not exceed the amount that is matchable out of federal funds.

(4) Needy children who are actual bona fide citizens of Texas, and are under the age of sixteen (16) years; provided that the Legislature shall prescribe the residence requirements for eligibility; provided that the maximum amount paid out of state funds to any individual recipient shall not exceed the amount that is matchable out of federal funds; and provided further, that the total amount of such assistance payments out of state funds on behalf of such recipients shall not exceed the amount that is matchable out of federal funds.

The Legislature shall have the authority to accept from the Government of the United States such financial aid for such assistance as such Government may offer not inconsistent with the restrictions herein set forth; provided, however, that the amount of such assistance out of state funds to each person assisted shall never exceed the amount matchable out of federal funds; and provided further, that the total amount of money to be expended per year out of state funds for such assistance shall never exceed Sixty Million Dollars (\$60,000,000).

The Legislature may enact appropriate laws to make lists of the recipients of aid hereunder available for inspection, under such limitations and restrictions as may be deemed appropriate by the Legislature. As amended Nov. 5, 1957; Nov. 6, 1962; Nov. 9, 1963.

Subsection 51a—2. Payments for medical care of needy persons of 65 years of age or over

Proposed addition of this section by S.J.R.No.10, see page LXXV.

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

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

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

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Sec. 60. The Legislature shall have the power to pass such laws as may be necessary to enable all counties and other political subdivisions of this State to provide Workman's Compensation Insurance, including the right to provide its own insurance risk, for all employees of the county or political subdivision as in its judgment is necessary or required; and the Legislature shall provide suitable laws for the administration of such insurance in the counties or political subdivisions of this State and for the payment of the costs, charges and premiums on such policies of insurance and the benefits to be paid thereunder. As amended Nov. 6, 1962.

§ 62. Continuity of State and Local Governmental Operations

Sec. 62. The Legislature, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and the immediate duty to provide for prompt and temporary succession to the powers and duties of public offices, except members of the Legislature, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices. Provided, however, that Article I of the Constitution of Texas, known as the "Bill of Rights" shall not be in any manner, affected, amended, impaired, suspended, repealed or suspended hereby. Added Nov. 6, 1962.

ARTICLE VII

EDUCATION

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

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

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theretofore voted in the district having at the time of such change the greatest scholastic population according to the latest scholastic census and only the unissued bonds of such district voted prior to such change, may be subsequently sold and delivered and any voted, but unissued, bonds of other school districts involved in such annexation or consolidation shall not thereafter be issued. Added Nov. 6, 1962.

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

Proposed amendment of this section by S.J.R.No.6, see page LXXV.

ARTICLE IX

COUNTIES

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

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

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

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

Should the Legislature enact legislation in anticipation of the adoption of this amendment, such legislation shall not be invalid by reason of its anticipatory character. Added Nov. 6, 1962.

§ 9. Hospital districts; creation, operation, powers and duties

Sec. 9. The Legislature may by law provide for the creation, establishment, maintenance and operation of hospital districts composed of one or more counties or all or any part of one or more counties with power to issue bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes; providing for the transfer to the hospital district of the title to any land, buildings, improvements and equipment located wholly within the district which may be jointly or separately owned by any city, town or county, providing that any district so created shall assume full responsibility for providing medical and hospital care for its needy inhabitants and assume the outstanding indebtedness incurred by cities, towns and counties for hospital purposes prior to the creation of the district, if same are located wholly within its boundaries, and a pro rata portion of such indebtedness based upon the then last approved tax assessment rolls of the included cities, towns and counties if less than all the territory thereof is included within the district boundaries; providing that after its creation no other municipality or political subdivision shall have the power to levy taxes or issue bonds or other obligations for hospital pur-

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

Provided, however, that no district shall be created except by act of the Legislature and then only after thirty (30) days' public notice to the district affected, and in no event may the Legislature provide for a district to be created without the affirmative vote of a majority of the taxpaying voters in the district concerned. Added Nov. 6, 1962.

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

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

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

If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the district may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the district shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the district to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said Seventy-five Cent¹ (75¢) tax. The Legislature shall provide for transfer of title to properties to the district.

Should the Legislature enact enabling laws in anticipation of the adoption of the amendment, such Acts shall not be invalid because of their anticipatory character. Added Nov. 6, 1962.

¹ So in enrolled bill.

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ARTICLE XVI

GENERAL PROVISIONS

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

Proposed amendment of this section by H.J.R.No.8, see page LXXVI.

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

Proposed amendment of this section by S.J.R.No.26, see page LXXVI.

PROPOSED AMENDMENTS

ARTICLE III

LEGISLATIVE DEPARTMENT

§ 51a—2. Payment for medical care of needy persons of 65 years of age or over

Subsection 51a-2. The Legislature shall have the power to provide by General Laws and to make payment for same, under such limitations and restrictions as may be deemed by the Legislature expedient, for direct or vendor payments for medical care on behalf of needy individuals sixty-five (65) years of age or over who are not recipients of Old Age Assistance, and who are unable to pay for needed medical services. The payments for such medical assistance on behalf of such needy individuals shall be in such amounts as provided by the Legislature; provided, however, that the amounts paid out of state funds for such purposes shall never exceed the amount that is matchable out of Federal funds for such purposes; provided further, however, that such medical care, services or assistance shall also include the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision.

The Legislature shall have the authority to accept from the Government of the United States, such financial aid in the form of medical assistance on behalf of the needy individuals sixty-five (65) years of age or over who are not recipients of Old Age Assistance, and who are unable to pay for needed medical services, as such Government may offer not inconsistent with restrictions herein set forth.

Proposed by Senate Joint Resolution No. 10, Acts 1963, 58th Leg., p. 1799. For submission to the people Nov. 3, 1964.

ARTICLE VII

EDUCATION

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

Sec. 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund, and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund. The available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever; nor shall the same, or any part thereof ever be appropriated to or used for the support of any sectarian school;

PROPOSED AMENDMENTS

and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in such manner as may be provided by law.

Proposed by Senate Joint Resolution No. 6, Acts 1963, 58th Leg., p. 1798. For submission to the people Nov. 3, 1964.

ARTICLE XVI

GENERAL PROVISIONS

* * * * *

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

* * * * *

(d) No law creating a conservation and reclamation district shall be passed unless notice of the intention to introduce such a bill setting forth the general substance of the contemplated law shall have been published at least thirty (30) days and not more than ninety (90) days prior to the introduction thereof in a newspaper or newspapers having general circulation in the county or counties in which said district or any part thereof is or will be located and by delivering a copy of such notice and such bill to the Governor who shall submit such notice and bill to the Texas Water Commission, or its successor, which shall file its recommendation as to such bill with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty (30) days from date notice was received by the Texas Water Commission. Such notice and copy of bill shall also be given of the introduction of any bill amending a law creating or governing a particular conservation and reclamation district if such bill (1) adds additional land to the district, (2) alters the taxing authority of the district, (3) alters the authority of the district with respect to the issuance of bonds, or (4) alters the qualifications or terms of office of the members of the governing body of the district.

Proposed by House Joint Resolution No. 8, Acts 1963, 58th Leg., p. 1808. For submission to the people Nov. 3, 1964.

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

* * * * *

(c) Each political subdivision within Jefferson County, Texas, shall have the right to provide for and administer a Retirement, Disability and Death Compensation Fund for all appointed officers and employees of all political subdivisions within Jefferson County, Texas; or said political subdivision may elect to join the County Retirement System of Jefferson County; provided that same is authorized by a majority vote of the qualified voters of such political subdivision and after such election has been advertised by being published in at least one (1) newspaper of general circulation in said county once each week for four (4) consecutive weeks; provided that the amount contributed by the said political subdivision to such Fund shall at least equal the amount paid for the same purposes from the income of each such person and shall not exceed at any time seven and one-half per centum (7½%) of the compensation paid to each such person by the political subdivision.

PROPOSED AMENDMENTS

All funds provided for the compensation of each such person, or by the political subdivision of Jefferson County, Texas, for such Retirement, Disability and Death Compensation Fund, as are received by the political subdivision within said county, shall be invested in bonds of the United States, the State of Texas, or counties or cities of this state, or in bonds issued by any agency of the United States Government, the payment of the principal of and interest on which is guaranteed by the United States, provided that a sufficient amount of said funds shall be kept on hand to be determined by the agency which may be provided by law to administer said Fund; and providing that the recipients of benefits for said Fund shall not be eligible for any other pension retirement fund or direct aid from the State of Texas, unless the Fund, the creation of which is provided for herein, contributed by the political subdivision is released to the State of Texas as a condition to receiving such other pension aid.

Proposed by Senate Joint Resolution No. 26, Acts 1963, 58th Leg., p. 1806. For submission to the people Nov. 3, 1964.

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AMENDMENTS TO CONSTITUTION OF UNITED STATES

Amendment XXIV—Qualifications of Electors; Poll Tax

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

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

Proposed by the Eighty-seventh Congress. Passed Senate Mar. 27, 1962; passed House Aug. 27, 1962; received by the Office of the Federal Register, NARS, General Services Administration, Aug. 29, 1962. The amendment was ratified by the legislatures of three-fourths of the several States on January 23, 1964.

RATIFICATION BY THE STATES

Alaska	February 11, 1963	Maryland	February 6, 1963
California	February 7, 1963	Massachusetts	March 28, 1963
Colorado	February 21, 1963	Michigan	February 20, 1963
Connecticut	March 20, 1963	Minnesota	February 27, 1963
Delaware	May 1, 1963	Missouri	May 13, 1963
Florida	April 18, 1963	Montana	January 28, 1963
Hawaii	March 6, 1963	Nebraska	April 4, 1963
Idaho	March 8, 1963	Nevada	March 19, 1963
Illinois	November 14, 1962	New Hampshire	June 12, 1963
Indiana	February 19, 1963	New Jersey	December 3, 1962
Iowa	March 24, 1963	New Mexico	March 5, 1963
Kansas	March 28, 1963	North Dakota	March 7, 1963
Kentucky	June 27, 1963	New York	February 4, 1963
Maine	January 16, 1964	Ohio	February 27, 1963
		Oregon	January 25, 1963
		Pennsylvania	March 25, 1963
		Rhode Island	February 14, 1963
		South Dakota	January 23, 1964
		Tennessee	March 21, 1963
		Utah	February 20, 1963
		Vermont	March 15, 1963
		Washington	March 14, 1963
		West Virginia	February 1, 1963
		Wisconsin	March 26, 1963

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AND
REVISED STATUTES OF TEXAS 1925

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VERNON'S
REVISED CIVIL STATUTES
OF THE
STATE OF TEXAS

TITLE 1—GENERAL PROVISIONS

Art. 17. Commencement of term of office

The regular terms of office for all elective state, district, county and precinct offices of the State of Texas, excepting the offices of Governor, Lieutenant Governor, State Senator, and State Representative, shall begin on the first day of January next following the general election at which said respective offices are regularly filled, and those who are elected to regular terms shall qualify and assume the duties of their respective offices on the first day of January following their election, or as soon thereafter as possible. Persons elected to unexpired terms in the various state, district, county and precinct offices shall be entitled to qualify and assume the duties of their respective offices immediately upon receiving a certificate of election, which certificate shall be issued immediately following the official canvass of the results of the election at which they were elected, and they shall take office as soon thereafter as possible. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 5.

Acts 1963, 58th Leg., p. 1017, ch. 424, § 5, Effective 90 days after May 24, 1963,
which amended this article, also repealed date of adjournment.
V.A.T.S. Election Code, art. 1.08, relating
to the same subject matter.

Art. 23. [5504] [3270] Definitions

Official notice of federal decennial census, see art. 29d.

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 per cent (25%) 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, except that any weekly newspaper shall be allowed to omit two (2) publication issues in twelve (12) months and still retain its status as a newspaper eligible to make 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 1963, 58th Leg., p. 462, ch. 163, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Advertising for owners of dormant or inactive savings accounts, see art. 3272b, § 3.

Art. 29d. Official notice of federal decennial census

Section 1. Neither the state nor any political subdivision or agency thereof shall ever officially recognize or act upon any report or publication, in whatever form, of any Federal Decennial Census, either as a whole or as to any part thereof, before the first day of January of the year immediately following the calendar year during which such census was taken.

Sec. 2. As of the first day of January of the year immediately following the calendar year during which said census was taken, the state and all political subdivisions and agencies thereof shall recognize and act upon the population reports or counts as released by the Director of the Bureau of the Census of the U. S. Department of Commerce, or of its successor agency; and as to those parts of such population reports or counts not then published, official recognition shall be taken immediately upon the publication thereof after said first day of January. Acts 1963, 58th Leg., p. 1151, ch. 447.

Effective 90 days after May 24, 1963, date of adjournment.

Interagency cooperation, see art. 4413 (32).

Acts 1963, 58th Leg., p. 1151, ch. 447, § 3 repealed all conflicting laws and parts of laws to extent of conflict.

Judicial notice of facts of a public or general nature, see art. 3713, rule 15.

Administrative rules and regulations, see art. 6252-13.

Preceding federal census, definition, see art. 23.

Art. 30. Revised Statutes cited

Permanent statutory revision program, see art. 5429b-1.

TITLE 3—ADOPTION

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

Consent of parents and child; exceptions

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

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

Consent shall not be required of parents whose parental rights have been terminated by order of the Juvenile Court or other court of competent jurisdiction; provided, however, that in such cases adoption shall be permitted only upon the written order of the court terminating such parental rights. Such written order of the court giving consent for the adoption of such child shall be confidential and shall be filed with and made a part of the confidential records in the adoption proceedings, and shall be open for inspection only under such conditions and through such procedures as are prescribed by law for the inspection of the confidential adoption records in the court.

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

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

In the case of any consent by the natural parents as herein required to the adoption of a minor child, regardless of whether or not said child was born in lawful wedlock, such consent shall be sufficient if given in writing after the birth of said child and duly acknowledged, giving the name, date and place of birth of said child, and shall agree to permanently surrender the care, custody, and parental authority of and over said child, and consent to its adoption upon judgment of any court of competent jurisdiction without the necessity of reciting therein the names of the parents by adoption. As amended Acts 1961, 57th Leg., p. 737, ch. 344, § 1; Acts 1963, 58th Leg., p. 941, ch. 370, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Delinquent children, see art. 2338—1.

Dependent and neglected children, see art. 2330.

TITLE 3A—AERONAUTICS

AERONAUTICS COMMISSION AND DIRECTOR
OF AERONAUTICS

Art. 46c—1. Definitions

Operation of aircraft while intoxicated,
see Vernon's Ann.P.C. art. 1137b—1.

MUNICIPAL AIRPORTS ACT

Art. 46d—1. Definitions

Airstrips, use of county equipment, ma- 650 to 17,700 for construction and mainte-
chinery and employees of counties of 17,- nance, see art. 1581d—1.

AIRPORT ZONING REGULATIONS

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

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

Provided, however, where an airport is owned or controlled by any political subdivision having more than 600,000 inhabitants, according to the last preceding Federal Census, and such airport is located within the territorial limits of such political subdivision and any airport hazard area appertaining to such airport is located outside of the territorial limits of said political subdivision owning or controlling such airport, the political subdivision shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question within a five (5) mile radius of the airport reference point of such airport as that vested by subsection (1) in the political subdivision within which such area is located; provided, however, that said control of such political subdivision shall not extend beyond the county in which the political subdivision is located. As amended Acts 1961, 57th Leg., p. 689, ch. 323, § 1; Acts 1963, 58th Leg., p. 1367, ch. 521, § 1.

Effective 90 days after May 24, 1963, date
of adjournment.

TITLE 4—AGRICULTURE AND HORTICULTURE

Chap.		Art.
16. Forests [New]		165—9

CHAPTER SIX—FRUITS AND VEGETABLES

Art. 118b. Citrus fruit growers act

Definitions

Section 1. As used in this Act:

(a) "Commissioner" means the Commissioner of Agriculture of the State of Texas. Commissioner is authorized to utilize all employees of the Department of Agriculture in the enforcement of this Act.

(b) "Citrus fruit," as the term is used in this Act, shall be construed to mean all citrus fruits grown in the State of Texas and bought and/or sold and/or handled in any way either as fresh or natural fruit or in canned and/or processed form.

(c) "Persons" shall mean and include any individual, partnership, group of persons or corporation or business unit handling citrus fruit in the State of Texas.

(d) "Handle" means buying or offering to buy, selling or offering to sell, or shipping for the purpose of selling, whether as owner, agent or otherwise, any citrus fruit within the State of Texas, and persons buying and/or shipping citrus fruit for canning and/or processing are defined as handlers.

(e) "Dealer" means any person who handles fruit, as the word "handle" is defined in (d) of this Section.

(f) "Buying agent" shall mean any person authorized by any licensed dealer to act for him in the handling of citrus fruit as defined in (d) of this Section.

(g) "Transporting agent" shall mean any person authorized by any dealer to act for said dealer in the transporting of citrus fruit.

(h) "Warehouseman" means and includes any person who receives and stores citrus fruit for compensation.

(i) "Packer" means and includes any person who prepares and/or packs citrus fruit or its products for barter, sale, exchange, or shipment.

(j) A "commission merchant" and/or dealer or a "contract dealer," as these terms are used in this Act, shall be construed to mean any "persons," as the word is herein defined, who purchase any citrus fruit on credit, or who take into their possession for consignment or handling, in behalf of the producer or owner thereof, or in any manner whatsoever, or by virtue of any contract whatsoever, which does not require and result in the payment to the producer, seller or consignor thereof the full amount of the purchase price thereof in current money of the United States, at the time of delivery of said citrus fruit to such persons or at the time when the title to such citrus fruit passes from the producer or seller there-

of to such "commission merchant" and/or "dealer" or "contract dealer." As amended Acts 1963, 58th Leg., p. 312, ch. 117, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Application for license

Sec. 3. Any person desiring to engage in business as a dealer in citrus fruits within this State shall, prior to engaging in such business, file with the Commissioner an application for license and receive a license, and said application shall be made under oath and the Commissioner shall provide forms for such applications, and said applications shall set forth the following specific information:

(a) The full name of the applicant and whether the applicant is an individual, partnership, corporation, exchange or association of persons; the full name and the address of the principal business office of the applicant and the address of the principal business office of applicant within the State of Texas; in the event that the applicant be a foreign corporation, the application shall name the state in which such corporation was chartered.

(b) The type of license applied for, whether "dealer," "canner" or "processor."

(c) Foreign corporations filing applications for license under this Act shall indicate clearly in such application the name and address of an agent for service within this State upon whom service of legal process may be had in any suit brought against said corporate applicant within the State of Texas.

(d) How long the applicant has been engaged in business in the State of Texas.

(e) The applicant shall answer the following questions which shall be included in and made a part of any application for license under the terms and provisions of this Act:

(1) "Have you heretofore been licensed in the State of Texas as a dealer in citrus fruits and/or perishable agricultural commodities?"

(2) "If you have answered that you have been so licensed, has any license so granted you within the State of Texas ever been suspended and/or revoked?"

(3) "If you have answered that a license so issued you within the State of Texas has been suspended and/or revoked, you will state when, where and give a short statement of the reason for such suspension and/or revocation." As amended Acts 1963, 58th Leg., p. 312, ch. 117, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

License fees; surety bond

Sec. 4. All applications for license under this Act shall be accompanied by a tender of payment in full of the fee for such license required; on receipt of said application duly executed, together with required fee, it shall be the duty of the Commissioner or his agents and/or employees thereunto duly authorized to immediately issue such license, provided that no license shall issue to any person when the application for license filed by such person shall indicate that such person is a suspended licensee within the State of Texas, or that such person's license to do business in Texas has been revoked until the Commissioner is furnished with satis-

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

factory proof that the applicant is, on the date of the filing of such application, qualified to receive the license applied for; the issuance of license to persons who have suffered prior suspension or revocation of license in this State shall be discretionary with the Commissioner; in the exercise of such discretion, the Commissioner is authorized to take into consideration the facts and circumstances pertaining to the prior suspension and/or revocation; the financial condition of the applicant, as of the date of this application, and the obligations due and owing by the applicant to growers and producers of citrus fruits and/or perishable agricultural commodities; "obligation," as the term is used in this Section, shall be construed to mean any judgment of any court within this State outstanding against the applicant or certified claims as of the date of the application under consideration by the Commissioner; prior to refusal of license by the Commissioner, any applicant for license shall be entitled to an open hearing on the facts pertaining to such application, said hearing to be conducted by the Commissioner, or his agent thereunto duly authorized; if, after such hearing, the Commissioner, in the exercise of his discretion, refuses the license applied for, the applicant shall, within ten (10) days from and after the denial of such license by the Commissioner and not thereafter, file his appeal from the order of the Commissioner denying such license, in any court of competent jurisdiction within this State; if the Commissioner shall determine that the license applied for shall not be granted, the Commissioner shall deduct from the license fee tendered with such application the sum of Five Dollars (\$5), said Five Dollars (\$5) to be retained by the Commissioner to defray costs and expenses incident to the filing and examination of said application and shall return the balance of the license fee so tendered with such application to the applicant.

(a) The following fees are hereby prescribed and shall be paid by applicants for license under this Act, and the Commissioner, his agents and employees are hereby authorized to collect the same.

(1) For license as a "dealer" or "handler" of citrus fruit, the sum of Twenty-five Dollars (\$25).

(2) For license as a "commission merchant" and/or "contract dealer," as the term is in this Act defined, Twenty-five Dollars (\$25).

(3) For a license as a "buying agent," the sum of One Dollar (\$1).

(4) For a license as a "transporting agent," the sum of One Dollar (\$1).

(b) All "commission merchants" and/or "dealers" and "contract dealers," as the terms are in this Act defined, shall, in addition to the license fee herein prescribed, deliver to the Commissioner, together with their application for license, a good and sufficient surety bond, payable to the Governor of the State of Texas and his successors in office in the following amounts for the number of standard packed boxes of citrus fruit, or the equivalent thereof, exclusive of citrus fruit grown by said "commission merchant" and/or "dealer" or "contract dealer," which the "commission merchant" and/or "dealer" or "contract dealer" intends to handle during the current or next ensuing shipping season:

\$ 5,000	up to 5,000 boxes
10,000	between 5,000 and 50,000 boxes, inclusive
25,000	over 50,000 boxes

The bond furnished shall be in such form as the Commissioner may prescribe and shall be conditioned upon faithful compliance with the terms and provisions of this Act and upon the faithful performance of the con-

ditions and terms of all contracts made by said "commission merchant" and/or "dealer" and "contract dealer," pertaining to the handling of citrus fruit under this Act; cause of action may be maintained upon said bond by any person with whom said applicant deals in purchasing, handling, selling and accounting for sales of citrus fruit, as provided in this Act; the aggregate accumulated liability under any such bond shall not exceed the amount of such bond, and each such bond shall continue in full force and effect until notice of the termination thereof is given by registered mail to the Commissioner, which fact shall be set forth in the face of said bond, but such notice shall not affect the liability which may have accrued thereon prior to termination. No license shall be issued to any "commission merchant" or "dealer," or "contract dealer" prior to the delivery to the Commissioner and the approval by him of the bond required under the provisions of this Section. No cooperative association organized pursuant to Chapter 8, Title 93 of the Revised Civil Statutes of Texas, 1925, as amended, that handles fruit only for its members shall be required to furnish bond as required in this Section. Any such cooperative association dealing in citrus fruit other than for its producer members shall be required to furnish bond as any other dealer. It is hereby declared to be the policy of the Legislature to make these exemptions with reference to cooperative associations because of the fact that the producer members pool their fruit for sale rather than immediately selling it. Any "commission merchant" and/or "dealer" or "contract dealer" who at any time deals in citrus fruit in excess of the amounts covered by his or its bond as hereinabove specified shall be deemed guilty of a violation of this Act. As amended Acts 1963, 58th Leg., p. 312, ch. 117, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Hearing on charge of violation of act

Sec. 6. Any license issued under the provisions of this Act shall remain in full force and effect for a period of twelve (12) months from and after the date of issuance thereof unless said permit shall be cancelled in the manner hereinafter provided and pursuant to the proceedings hereinafter required, to wit: any person aggrieved, injured or damaged by virtue of any violation of the terms and provisions of this Act by any licensee or by the transporting or buying agent of any licensee hereunder, may file with the Commissioner or his duly authorized agent or employee a verified complaint, setting out the specific violation complained of; the Commissioner, on receipt of said verified complaint, shall set a date not more than ten (10) days from the receipt of such complaint for the hearing thereof; Commissioner shall, by registered mail to the last known address, notify the person complained of and shall furnish such person with a copy of such complaint; the Commissioner may, at his discretion, recess the hearing provided for in this Section from day to day if in his discretion the ends of justice demand such continuance; for the purpose of said hearings the Commissioner shall have the authority to summon witnesses; to inquire into matters of fact; to administer oaths, and to issue the subpoena duces tecum, for the purpose of obtaining any books, records, instruments of writing, and other papers pertinent to the investigation at hand; upon the conclusion of said hearing and the introduction of all evidence by the respective parties thereto, the Commissioner shall, within a reasonable length of time after studying all evidence, make his decision on the basis of the evidence introduced therein, and shall, if the evidence warrants, issue his order canceling the license of the person complained of; any licensee, whose license is so cancelled by an order

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

of the Commissioner, shall be notified in writing by registered mail of the cancellation of said license and it shall be unlawful and a violation of this Act for any licensee or buying or transporting agent to operate from and after said notification of cancellation, provided that said licensee or buying or transporting agent whose license has been so cancelled shall have the right of appeal from the order of the Commissioner canceling said license to any court of competent jurisdiction within this State, provided that such appeal shall be filed in said court within ten (10) days from and after receipt by licensee of notice of said cancellation, and provided further that the effect of said appeal by said licensee or licensee's agent shall not act to supersede the order of cancellation issued by the Commissioner, pursuant to final determination of the question of cancellation by said court. As amended Acts 1963, 58th Leg., p. 312, ch. 117, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Buying by weight

Sec. 11. Any dealer who buys citrus fruit by weight and who does not have such fruit weighed on State tested scales shall be deemed guilty of a violation of this Act. As amended Acts 1963, 58th Leg., p. 312, ch. 117, § 5.

Effective 90 days after May 24, 1963, date of adjournment.

Exemption from bond; penalty

Sec. 25. Any person who purchases citrus fruit only from dealers duly qualified as such under this Act and receives said fruit at the dealer's place of business and pays therefor prior to or at the time of delivery or taking possession of such citrus fruit so purchased in current money of the United States shall be exempt from giving the bond provided for in this Act and such person shall indicate on his application for license that he desires to operate as a cash buyer, buying only from dealers duly qualified as such under this Act, in accordance with the provisions of this Section and thereupon such person shall be entitled to a license as a cash citrus dealer, purchasing only from dealers duly qualified under this Act, upon the payment by such applicant of the license fee as required under this Act. Such dealer shall be subject to all the pertinent provisions of this Act. Any violation of this Section shall be deemed a misdemeanor and be punishable, as provided in Section 21 of this Act.

Any producer handling or dealing in his own products exclusively, shall be licensed, upon application, by the Commissioner of Agriculture without charge and without being required to give a bond. As amended Acts 1963, 58th Leg., p. 312, ch. 117, § 7.

Effective 90 days after May 24, 1963, date of adjournment.

Applicable to Texas Citrus Zone only

Sec. 27. Repealed. Acts 1963, 58th Leg., p. 312, ch. 117, § 8.

Effective 90 days after May 24, 1963, date of adjournment.

Section 6 of the amendatory act of 1963 amended Vernon's Ann.P.C. art. 1700a-3, relating to license and bond requirements of dealers, handlers, transporting agents and buying agents.

Identification signs on vehicles hauling citrus fruit, see Vernon's Ann.P.C. art. 827c-1.

Regulation of vegetable producers and dealers, see art. 1237-3.

CHAPTER SEVEN—NURSERY STOCK

Art. 135. [4467] Definitions

The following definitions shall apply to the various categories and individuals coming within the provisions of Chapter 7 of the Revised Civil Statutes of Texas, 1925, and the amendments thereto, and shall also be used as the legal definitions of the terms herein defined in the interpretation and application of the laws of this State for all purposes.

1. Nursery Products and Nursery Stock. The terms "nursery products" and "nursery stock" within the meaning of this law shall include all trees, shrubs, vines, cuttings, grafts, scions, grasses, bulbs and buds grown or kept for, or capable of, propagation, distribution or sale, and all such "nursery products" and "nursery stock" are herewith defined to be and shall be considered as "farm products in the hands of the producer" so long as they are in a growing state, and until such "nursery products" and "nursery stock" are sold to the consumer.

2. Nursery Grower. The term "nursery grower" shall be construed to mean any person, firm, partnership or corporation growing nursery products or nursery stock for the purpose of sale, who actually grow more than fifty per cent (50%) of the nursery products and nursery stock sold by or under the direction of said person, firm, partnership or corporation, regardless of the variety of nursery products or nursery stock sold or grown.

3. Nursery Dealer. The term "nursery dealer" shall be construed to mean any person, firm, partnership or corporation who buy and sell or offer for sale nursery products and/or nursery stock and who has facilities that maintain or preserve said nursery products and nursery stock without permitting same to become dry or infested or diseased, and provided said nursery dealer shall have an established permanent address, which address shall be registered with the Commissioner of Agriculture and which address shall be imprinted upon the certificate and all copies of the certificate issued to said nursery dealer by the Commissioner of Agriculture.

4. Nursery Agent. The term "nursery agent" shall be construed to mean any person, firm, partnership or corporation selling nursery products or nursery stock or taking mail orders or in any manner selling or offering for sale nursery products and nursery stock, either as being entirely under the control of a nursery grower or nursery dealer, with whom the nursery products or nursery stock offered for barter and traffic originates, or some cooperative basis for handling nursery products or nursery stock with the nursery grower or nursery dealer as hereinbefore defined. Any such nursery agent shall have proper credentials from the nursery grower or nursery dealer he represents or cooperates with, and failing in that, any such nursery agent shall be classed as a nursery dealer, and subject to such rules and regulations as may be adopted relative to them, and shall be amenable to the same penalties for violation of any provisions of this law.

5. Florist. The term "florist" shall be construed to mean any person, firm, partnership or corporation who maintains, grows, raises, or buys and offers for sale for profit, cut flowers, potted plants, blooming plants, inside foliage plants, bedding plants, corsage flowers, cut foliage, floral decorations and live decorative material. As amended Acts 1959, 56th Leg., p. 613, ch. 280, § 17; Acts 1963, 58th Leg., p. 858, ch. 328, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER SEVEN A—PLANT DISEASES AND PESTS

Art.

135b—5. Insecticide, Fungicide, and Rodenticide Act of Texas [New].

Art. 135b—1. Repealed. Acts 1963, 58 Leg., p. 30, ch. 23, § 13. Eff. March 28, 1963.

See, now, art. 136b—5.

Art. 135b—5. Insecticide, Fungicide, and Rodenticide Act of Texas

Title

Section 1. This Act shall be known as the "Insecticide, Fungicide, and Rodenticide Act of Texas."

Definitions

Sec. 2. For the purpose of this Act:

A. The term "economic pesticide" means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Commissioner shall declare to be a pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. The term does not include any "commercial fertilizer" within the meaning of Chapter 37, Acts of the Fifty-seventh Legislature, 1961, known as the Texas Commercial Fertilizer Control Act of 1961.

B. The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, weeds, nematodes, or such other pests as may be designated by the Commissioner, but not including equipment used for the application of economic pesticides when sold separately therefrom.

C. The term "ingredient statement" means either:

(1) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic pesticide, and in the case of a liquid economic pesticide, in a one-gallon container or more, an additional statement of the pounds per gallon of each active ingredient; or

(2) A statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any there be, in the economic pesticide (except Option 1 shall apply if the preparation is highly toxic to man, determined as provided in Section 5 of this Act); and, in addition to (1) or (2) in case the economic pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

D. The term "active ingredient" means:

(1) In the case of an economic pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests;

(2) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate

of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(3) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

(4) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

E. The term "person" means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

F. The term "Commissioner" means the Texas Commissioner of Agriculture or his duly authorized agent.

Prohibited Acts

Sec. 3. A. It shall be unlawful for any person to distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State any of the following:

(1) Any economic pesticide which has not been registered pursuant to the provisions of Section 4 of this Act, or any economic pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic pesticide differs from its composition as represented in connection with its registration. Provided, that, in the discretion of the Commissioner, a change in the labeling or formula of an economic pesticide may be made within a registration period if the economic pesticide is registered in conformity with the requirements of this Act for other economic pesticides.

(2) Any economic pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing:

(a) The name and address of the manufacturer, registrant, or person for whom manufactured;

(b) The name, brand, or trade-mark under which said article is sold; and

(c) The net weight or measure of the contents of the container, subject, however, to such reasonable variations as the Commissioner may permit after he consults with the advisory group provided for in Section 5B of this Act. Provided, that in the case of a tank truck used merely to deliver an economic pesticide to the user when the truck does not remain in the user's hands, an invoice with the required labeling information left with the purchaser at the time of delivery of the economic pesticide is permissible in lieu of a label being affixed to the tank.

(d) The ingredient statement as provided for in Section 2C of this Act.

(3) Any economic pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in Section 5 of this Act, unless the label shall bear, in addition to any other matter required by this Act:

(a) The skull and crossbones;

(b) The word "poison" prominently, in red, on a background of distinctly contrasting color; and

(c) A statement of an antidote for the economic pesticide.

(4) Any economic pesticide that is not distinctly colored or discolored in accordance with such rules and regulations as the Commissioner shall issue pursuant to this Act.

(5) Any economic pesticide which is adulterated or misbranded, or any device which is misbranded.

B. It shall be unlawful:

(1) For any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this Act or regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic pesticide in a manner that may defeat the purpose of this Act;

(2) For any person to use for his own advantage or to reveal, other than to the Commissioner or proper officials or employees of the State or to the courts of this State in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of Section 4 of this Act.

Sec. 4. A. Every economic pesticide which is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the office of the Commissioner, and such registration shall expire August 31 of each year and shall be renewed annually. The registrant shall file with the Commissioner a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

(2) The name of the economic pesticide;

(3) A complete copy of the labeling accompanying the economic pesticide and a statement of all claims to be made for it including directions for use; and

Registration

(4) If requested by the Commissioner a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the economic pesticide was registered or last reregistered.

B. The registrant shall pay to the Commissioner an annual registration fee of Twenty Dollars (\$20) for each economic pesticide registered provided that:

(1) All registration fees collected by the Commissioner under this Act shall be paid into the State Treasury by the Commissioner and placed by the State Treasurer in the Special Department of Agriculture Fund, and shall be used only for administrative and enforcement purposes of this Act;

(2) Any registrant who is located outside the State of Texas but who distributes economic pesticides in the State of Texas shall deposit with the Commissioner an instrument in writing appointing a resident agent within this State upon whom service may be had in actions filed by the State or taken by the Commissioner in the administration or enforcement of this Act.

(3) The Commissioner is authorized to cancel all registrations of any registrant who fails to comply with the requirements of this Act.

C. The Commissioner, whenever he deems it necessary in the administration of this Act, may require the submission of the complete formula of any economic pesticide. If it appears to the Commissioner that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of Section 3 of this Act, he shall register the article.

D. If it does not appear to the Commissioner that the article is such as to warrant the proposed claims for it or if the article with its labeling and other material required to be submitted do not comply with the provisions of this Act, he shall notify the registrant of the manner in which the article, labeling, or other material required to be submitted fail to comply with the Act so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that the article be registered, the Commissioner shall register the article, under protest, and such registration shall be accompanied by a warning, in writing, to the registrant of the apparent failure of the article to comply with the provisions of this Act. In order to protect the public, the Commissioner, on his own motion, may at any time cancel the registration of an economic pesticide and in lieu thereof issue a registration under protest in accordance with the foregoing procedure. In no event shall registration of an article, whether or not protested, be construed as a defense for the commission of any offense prohibited under Section 3 of this Act.

E. Notwithstanding any other provision of this Act, registration is not required in the case of an economic pesticide shipped from one plant within this State to another plant within this State operated by the same person.

Determinations; Rules and Regulations; Uniformity

Sec. 5. A. The Commissioner is authorized, after opportunity for a hearing:

(1) To declare as a pest any form of plant or animal life or virus which is injurious to plants, men, domestic animals, articles, or substances;

(2) To determine whether economic pesticides are highly toxic to man; and

(3) To determine standards of coloring or discoloring for economic pesticides, and to subject economic pesticides to the requirements of Section 3A(4) of this Act.

B. The Commissioner, after consulting with suitable officials of organizations known to be concerned with the manufacture, distribution, and use of economic pesticides, is authorized to make and issue appropriate rules and regulations for carrying out the provisions of this Act, including rules and regulations providing for the collection and examination of samples of economic pesticides and devices and for the labeling of custom mixes.

C. The Commissioner, after such consultation as is prescribed in paragraph B of Section 5 hereof, shall from time to time issue such rules and regulations as are necessary to carry out the purposes of this Act. Such rules and regulations shall be published from time to time and made accessible to those affected by this Act.

D. The Commissioner shall furnish upon request quarterly reports and one consolidated annual report of the official economic pesticide sample results. The contents of the report are to be determined in a manner which the Commissioner finds most expedient.

Enforcement

Sec. 6. A. The Commissioner shall have authority to enter into any building or place owned, controlled or operated by a registrant or dealer where, from probable cause it appears that said building or place contains economic pesticides for the purpose of inspection or sampling, and shall have the power to take a sample for official analysis from any package or lot of economic pesticides, including custom mixes, found within this State. The Commissioner shall have the power to issue and enforce a written or printed "stop-sale" order to the owner or custodian of any economic pesticide which he has reason to believe is in violation of any of the provisions of this Act prohibiting further sale of such economic pesticide until he has evidence that the law has been complied with. Provided, that in respect to the economic pesticide which has been denied sale as provided in this paragraph, the owner or custodian of such economic pesticide shall have the right to appeal from such order to a court of competent jurisdiction where the economic pesticide is found, praying for a judgment as to the justification of said order and the discharge of such economic pesticide 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 Commissioner to proceed as authorized by other Sections of this Act.

B. In addition to the remedies herein provided, the Commissioner is hereby authorized to institute an action in his own name to enjoin any violation of any provision of this Act.

C. The Commissioner is authorized to contract with State colleges, State agencies or commercial laboratories for examination of economic pesticides provided such facilities and examinations are certified as adequate by the head of the A. & M. College Agricultural Analytical Services Laboratory and provided that such contracts to commercial laboratories are let on a competitive bid basis.

D. The Commissioner shall make or provide for service sample tests of economic pesticides on request, and after consulting with the advisory group as provided for in Section 5B of this Act, he shall fix and collect charges for each service sample on a cost basis.

Exemptions

Sec. 7. A. The penalties provided for violation of Section 3A of this Act shall not apply to:

(1) Any carrier while lawfully engaged in transporting an economic pesticide within this State, if such carrier shall, upon request permit the Commissioner or his designated agent to copy all records showing the transactions in and movement of the articles;

(2) Public officials of this State and the Federal Government engaged in the performance of their official duties;

(3) The manufacturer or shipper of an economic pesticide for experimental use only;

(4) Any person who employs or uses economic pesticides in the sale of a pest extermination or control service;

(a) By or under the supervision of an agency of this State or of the Federal Government authorized by law to conduct research in the field of economic pesticides, or

(b) By others if the economic pesticide is not sold and if the container thereof is plainly and conspicuously marked "FOR EXPERIMENTAL USE ONLY—NOT TO BE SOLD," together with the manufacturer's name and address; provided, however, that if a written permit has been obtained from the Commissioner, economic pesticides may be sold for experiment purposes subject to such restrictions and conditions as may be set forth in the permit.

B. No article shall be deemed in violation of this Act when intended solely for export to a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of this Act shall apply.

Penalties

Sec. 8. A. Any firm, corporation, or person who shall sell or offer for sale any economic pesticide or device without having attached thereto such statements as are required by law or who shall sell or offer for sale any adulterated or misbranded economic pesticide or device within the meaning of this Act, or who shall violate any other provisions of this Act, shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine of not less than Fifty Dollars (\$50), nor more than Two Hundred Dollars (\$200) for each offense.

B. Notwithstanding any other provision of this Section, in case any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under authority of Section 4 of this Act, he shall upon conviction be guilty of a misdemeanor, and he shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or imprisonment for not more than one year, or both.

Appeals

Sec. 8A. In all appeals prosecuted in any of the courts of this State pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act.

Seizures

Sec. 9. A. Any economic pesticide or device that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be liable to be proceeded against in any court of competent jurisdiction in any county of the State where it

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

may be found and seized for confiscation by process of libel for condemnation:

- (1) In the case of an economic pesticide,
 - (a) If it is adulterated or misbranded;
 - (b) If it has not been registered under the provisions of Section 4 of this Act;
 - (c) If it fails to bear on its label the information required by this Act;
 - (d) If it is a white powder economic pesticide and is not colored as required under this Act.

(2) In the case of a device, if it is misbranded.

B. If the article is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court may direct and the proceeds, if such article is sold, less legal costs, shall be paid to the State Treasurer; provided, that the article shall not be sold contrary to the provisions of this Act; and provided further, that upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the article shall not be disposed of unlawfully, the court may direct that said article be delivered to the owner thereof for relabeling or reprocessing as the case may be.

C. When a decree of condemnation is entered against the article, court costs and fees and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article.

Delegation of Duties

Sec. 10. All authority vested in the Commissioner by virtue of the provisions of this Act may with like forces and effect be executed by such employees of the Texas Department of Agriculture as the Commissioner may from time to time designate for said purpose.

Cooperation

Sec. 11. When he deems it necessary, the Commissioner is authorized and empowered to cooperate with, and enter into agreements with any other agency of this State, the United States Department of Agriculture, and any other state or agency thereof for the purpose of carrying out the provisions of this Act and securing uniformity of regulations.

Severability

Sec. 12. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby. Acts 1963, 58th Leg., p. 30, ch. 23.

Emergency. Effective March 28, 1963.

Section 13 of the Act of 1963 repealed art. 1356—1.

CHAPTER TEN—MILK PRODUCERS AND DISTRIBUTORS

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

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

Tex.St.Supp. 1964—2

CHAPTER 16—FORESTS [NEW]

Art.
165—9. Control of forest pests

Art. 165—9. Control of forest pests**Purpose**

Section 1. In order to protect forest resources, enhance the growth and maintenance of forests, promote stability of forest-using industries, protect recreational wildlife uses and conserve other values of the forest, it is hereby declared to be the public policy of the State of Texas to control forest pests in or threatening forests in the State of Texas.

Definitions

Sec. 2. (a) "Forest pests" means insects and diseases that are harmful, injurious or destructive to forests and whose damage, if uncontrolled, is of considerable economic importance. These pests include but are not limited to the following: pine bark beetles of the genera *Dendroctonus*, *Ips*, *Pissodes*, and *Hylobius*; sawflies of the genus *Neodiprion*; defoliators in the genera *Datana*, *Malacosoma*, *Hyphantria*, *Diapheromera*, and *Galerucella*; pine shoot moth of the genus *Rhyacionia*; wilt of the genus *Chalara* and rots of the genera *Fomes* and *Polyporus*.

(b) "Forest land" means lands on which the trees are potentially valuable for timber products, protection of watersheds, wildlife habitat, recreational uses or for other purposes, but shall not include any land within the incorporated limits of any village, town, or city.

(c) "Forest" includes the standing trees on any forest land.

(d) "Person" includes any individual, firm, partnership, corporation, association or other business whether or not incorporated.

(e) "Control" includes prevent, retard, suppress, eradicate or destroy.

(f) "Infestation" includes actual infestation or infection at condition beyond normal proportion causing abnormal epidemic loss to present and/or future commercial timber supply.

(g) "Landowner" and "owner" includes any person who owns forest lands, or who has such forest land under his direction irrespective of ownership.

(h) "Forest owner" means any person who owns the standing trees on any forest land, either by a present right or by a future right under the terms of a valid existing contract.

(i) "Tract" means all contiguous land in common ownership.

(j) The singular and plural number shall each include the other unless the context otherwise requires.

(k) The masculine gender shall include the feminine and neuter.

Public nuisance

Sec. 3. Forest pests are declared to be a public nuisance.

Landowner duty

Sec. 4. Each owner of forest land shall control such forest pests on lands owned by him or under his direction as hereinafter provided.

Administrative responsibility

Sec. 5. The Texas Forest Service shall administer this Act and make all relevant determinations. It shall make surveys and investigations to determine the existence of infestations of forest pests, and means practical for their control by landowners. For this purpose, duly delegated representatives of the Texas Forest Service may enter private lands and public lands, including, if permission is obtained, those held by the United States, for the purpose of conducting such surveys and investigations. All its information shall be available to all interested landowners.

Area proceedings

Sec. 6. Whenever the Texas Forest Service finds an infestation existent or threatened in the State, it shall determine when control measures are needed, the nature of such control measures, their availability and the techniques by which the control measures shall be applied. Having determined that an infestation exists, the Texas Forest Service shall give notice of the fact by:

a. Placing a notice in a newspaper or newspapers, if any, in the county or counties in which any infested lands are located, or if no such newspaper exists, then placing a notice in a newspaper or newspapers of general circulation in the county or counties in which any infested lands are located, stating its findings, and setting a time and place for a hearing, not less than ten (10) days from the date of such notice, on the need for the control of the pest.

b. Mailing copies of such notice to owners of forest land known to the Texas Forest Service to have holdings in the affected area.

c. Arranging for publicity on the subject by all news media serving the affected area.

At the hearing, the agent of the Texas Forest Service who presides will describe the conditions that have been found, explain the measures needed to control the pest infestation, hear all suggestions and protests and record the proceedings. As soon as practicable after the hearing, the Texas Forest Service shall promulgate procedures to be followed for the control of the infestation, mailing copy to all appearing at the hearing, to all to whom notices were originally sent and publishing by newspaper circulated in the affected area in manner the same as publication of preliminary notice. Such publication is notice as of its publication date to each landowner within the affected area and as to each tract of land therein.

Specific proceedings

Sec. 7. If in instances to which Section 6 has not been applied control measures are needed to check the spread of the forest pests on forest land owned or controlled by any person, written notice, signed by a duly authorized representative of the Texas Forest Service, whose mailing address shall be shown on said notice, shall be given to such person informing him of the facts as found to exist, of his responsibilities for the control measures, of the control technique that is recommended, of the law under which control must be accomplished, and of the authority of the Texas Forest Service in the event the landowner takes no action toward controlling the pest. The notice may be given by personal service on the landowner, or on the person having control of the forest land, or by registered or certified mail directed to such person at his last known address, or, if such person or his address be unknown, then

such notice shall be given by publication in one issue of a newspaper of general circulation in the county in which the land is located, which published notice, in addition to the other matters contained therein as above provided, shall state the name of the owner, if known, and shall briefly describe the land to which the notice applies; no other notice shall be necessary under the provisions of this law.

Duties after determination

Sec. 8. (a) Within ten (10) days after the giving of notice, whether under Section 6 or 7, exclusive of the date of the giving of such notice, each affected landowner shall commence diligently to take measures to control the infestation as prescribed, and continue such activity with all practical expedition and efficiency under the direction of the Texas Forest Service. The landowner shall notify the Texas Forest Service of his actions, and the result thereof; and each such landowner may report to and consult with the representative or representatives of the Texas Forest Service as often as may be necessary. The Texas Forest Service may change its prescribed procedures as conditions or new information may require. The Texas Forest Service shall inform itself of what is done and the result thereof, and upon request certify when all reasonably practicable measures to be done by landowners, pursuant to its prescribed procedures, shall have been completed.

(b) Where all or part of the standing trees are owned by someone other than the landowner, either by a present right or by a future right under the terms of a valid existing contract, the landowner shall, within ten (10) days after receiving the notice provided for above from the Texas Forest Service, notify the Texas Forest Service of such facts and furnish the names and addresses of any such forest owner.

Notice to forest owner

Sec. 9. Where the landowner has given the Texas Forest Service notice of any interest in the forest upon his land owned by another, as provided for above, then the Texas Forest Service shall furnish the same information to this forest owner that it is required by this Act to give to the landowner.

Appeal

Sec. 10. Any landowner, or person having control of forest land, aggrieved by the notice given by the Texas Forest Service shall have the right to seek relief in the district court of the county in which the land is situated, and at no time while such litigation is pending shall the Texas Forest Service proceed with any control measures, unless permission to do so is given by the court upon a showing of probable harm due to any delay in using such control measures. Proceedings to obtain relief shall be initiated by the aggrieved landowner or other person having control of the forest land, within ten (10) days from and after the giving of such notice, exclusive of the date of the giving of such notice in the manner hereinabove provided, and not thereafter. The district court shall give priority to any such case. If the final judgment in any such action be in favor of the landowner, then the landowner may be entitled to injunctive relief against the use of any control measures on his forest land by the Texas Forest Service until such time as the court may determine. If the final judgment be against the landowner, or if the landowner shall fail to seek relief in the district court of said county, the notice from the Texas Forest Service shall be final and the Texas Forest Service shall summarily take the measures necessary to control the infestation.

Control measures by agency

Sec. 11. In the event pest control measures as prescribed by the Texas Forest Service are not applied by the landowner or any other person within ten (10) days from the giving of the notice herein provided, exclusive of the date of the giving of such notice, representatives of the Texas Forest Service shall enter upon said lands and cause the forest pest to be controlled or destroyed. All charges and expenses of such control or destruction shall be paid for by the owner of the land upon which the infestation occurred. If the control is undertaken by the Texas Forest Service, the cost, not to exceed Ten Dollars (\$10) for each infested acre or part of such an acre on which control measures have been employed, shall constitute a legal claim against such landowner, but shall not constitute a lien on any land owned by such landowner, and may be recovered by suit brought in behalf of the Texas Forest Service by the Attorney General in the county where the infestation occurred, together with all costs incurred in such suit; provided, however, in the event that the tract with respect to which the Texas Forest Service conducted control measures contains fifty (50) acres of forest land or less, and the landowner in whose name the record title to such land stands owns no more than fifty (50) acres of forest land in the county in which the infestation occurred, then the cost of control shall be borne by the Texas Forest Service.

Landowner reimbursement

Sec. 12. Where the landowner has given the Texas Forest Service notice of any interest owned by another in the forest upon his land, and where the landowner has made expenditures for pest control purposes pursuant to Section 8a, or has paid any legal claim against him because of the provisions of Section 11, then such landowner shall have a right to a reasonable reimbursement for such expenses from the forest owner, such reimbursement to be proportional to the interest owned in the forest by the forest owner.

Cooperative agreements

Sec. 13. In order to accomplish the control of such forest pests, the Texas Forest Service may enter into cooperative agreements with private landowners or forest owners, the Federal Government, or other public or private agencies. Acts 1963, 58th Leg., p. 745, ch. 281.

Effective 90 days after May 24, 1963, date of adjournment.

Conservation and development of forests, see art. 7466.

Natural resources, see Const. art. 16, § 59.

Public lands, surface and timber lands, see art. 5306 et seq.

Texas A & M University
Acceptance of donations for forestry purposes, see art. 2613a—2.

Cooperation of state forester with federal agencies under supervision of board of directors, see art. 2613b.

Meetings of board of directors with administrators of South Central Interstate Forest Fire Protection Compact, see art. 2613c.

Purchase of land for forest tree seedling nursery, see art. 2613a—3.

Texas Forest Service employees, entry upon privately owned lands, see art. 2613 b—1.

TITLE 8—APPORTIONMENT

SENATORIAL DISTRICTS

Art. 194a. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(c).
Eff. 90 days after May 24, 1963, date of adjournment

See, now, V.A.T.S. Election Code, arts.
8.41, 8.42.

REPRESENTATIVE DISTRICTS

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

Sec. 2. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(c),
eff. 90 days after May 24, 1963, date of adjournment.

See, now, V.A.T.S. Election Code, arts.
8.41, 8.42.

SUPREME JUDICIAL DISTRICTS

Art. 198. Supreme Judicial Districts

This state shall be divided into thirteen (13) 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, Brazoria, Fort Bend, Galveston and Colorado.

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: Jim Wells, Val Verde, Guadalupe, Sutton, Edwards, Kinney, Maverick, Menard, Kimble, Kerr, Bandera, Uvalde, Zavala, Dimmit, Webb, LaSalle, Frio, Medina, Duval, McMullen, Atascosa, Bexar, Kendall, Wilson, Zapata, Karnes, Starr, Jim Hogg, Real, Brooks, Gillespie and Mason.

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

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

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: San Jacinto, Montgomery, Liberty, Jefferson, Orange, Hardin, Newton, Jasper, Tyler, Polk, and Angelina.

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

Eleventh: Dawson, Howard, Mitchell, Scurry, Nolan, Fisher, Stonewall, Taylor, Jones, Haskell, Knox, Callahan, Shackelford, Throckmorton, Baylor, Coleman, Brown, Comanche, Eastland, Stephens, Erath, Palo Pinto and Borden.

Twelfth: Kaufman, Van Zandt, Rains, Hopkins, Wood, Upshur, Smith, Henderson, Anderson, Houston, Cherokee, Rusk, Nacogdoches, San Augustine, Sabine, Shelby, Panola, and Gregg.

Thirteenth: Lavaca, Wharton, Gonzales, De Witt, Jackson, Matagorda, Victoria, Goliad, Calhoun, Bee, Refugio, Aransas, San Patricio, Nueces, Kleberg, Kenedy, Willacy, Hidalgo, Cameron, and Life Oak. As amended Acts 1963, 58th Leg., p. 539, ch. 198, § 1; Acts 1963, 58th Leg., p. 927, ch. 357.

Effective 90 days after May 24, 1963, date of adjournment.

TRANSITIONAL PROVISIONS

Acts 1963, 58th Leg., p. 539, ch. 198, which amended this article and article 1817 by creating the Twelfth and Thirteenth Supreme Judicial Districts and by locating the Court of Civil Appeals thereof in the cities of Tyler and Corpus Christi, provided in sections 3-6:

"Sec. 3. This Act shall not affect the jurisdiction on appeal of cases from the counties named in the newly-created Twelfth and Thirteenth Supreme Judicial Districts in which the transcripts shall have been filed in the Courts of Civil Appeals of which said counties were formerly a part where such transcripts have been filed prior to the date this Act becomes effective. In any case from a trial court of any county now a component of the newly-created Twelfth and Thirteenth Supreme Judicial Districts 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 of the Supreme Judicial District to which the county formerly belonged prior to the date this Act becomes effective, the record in such case shall be filed in the Court of Civil Appeals for the Twelfth or Thirteenth Supreme Judicial District of Texas, whichever shall have jurisdiction; provided, however, that in any case from a trial court of counties now comprising the Twelfth and Thirteenth Supreme Judicial Districts 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 either the Court of Civil Appeals to which the county formerly belonged or in the Twelfth or Thirteenth 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.

"Sec. 4. On or before September 1, 1963, the Governor shall by and with the consent of the Senate, if in session, appoint one chief and two (2) associate justices for the Twelfth Supreme Judicial District, who shall each reside in the territorial limits of the Twelfth Supreme Judicial District, and who shall possess the qualifications now required by law, who shall constitute the Court of Civil Appeals within and for the Twelfth Supreme Judicial District, and who shall hold their offices until the next General Election in 1964 and who shall thereafter be elected and qualify as provided and required by Article 1813 of the Revised Civil Statutes of Texas of 1925, as amended.

"Sec. 5. On or before September 1, 1963, the Governor shall by and with the consent of the Senate, if in session, appoint one chief and two (2) associate justices for the Thirteenth Supreme Judicial District, who shall each reside in the territorial limits of the Thirteenth Supreme Judicial District, and who shall possess the qualifications now required by law, who shall constitute the Court of Civil Appeals within and for the Thirteenth Supreme Judicial District and who shall hold their offices until the next General Election in 1964 and who shall thereafter be elected and qualify as provided and required by Article 1813 of the Revised Civil Statutes of Texas of 1925, as amended.

"Sec. 6. There is hereby authorized to be appropriated out of any moneys in the State Treasury such sums of money as shall be necessary to put into effect the provisions of this Act. The salaries of the judges are authorized to be as fixed in said Appropriations Bill, and the employees to be employed and the salaries to be paid such employees, in addition to said judges, are likewise authorized to be fixed and determined in the Appropriations Bill; and provision shall be made therein for such records, supplies and other necessary items that shall be required for the effective operation of said Court."

JUDICIAL DISTRICTS

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

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

11, 55, 61, 80, 113, 125, 127, 129, 133, 151, 152, 157, 164, 165—Harris

In addition to the Criminal District Courts of Harris County, Texas, Harris County shall constitute the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, 157th, 164th and 165th Judicial Districts.

The two (2) additional District Courts herein created [164th and 165th] shall have and exercise concurrent jurisdiction, coextensive with- in the limits of Harris County, in all Criminal and Civil Cases, proceedings, and matters over which the other District Courts of Harris County are given jurisdiction by the Constitution and laws of this State.

There shall be two (2) terms of each said fourteen (14) Civil District Courts in Harris County in each year, and the first term shall be known as the January-June term, and shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second term, which shall be known as the July-December term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

In all suits, actions, or proceedings in said Courts, it shall be sufficient for the address or designation to be merely "District Court of Harris County." The Clerk of the Civil District Courts in Harris County shall be known as the "Clerk of the District Court of Harris County, Texas." The Clerk of said fourteen (14) Civil District Courts shall docket alternately on the dockets of the District Courts of the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, 157th, 164th and 165th Judicial Districts in Harris County, all cases, actions, petitions, applications, and other proceedings filed in the District Courts of Harris County so that the first case, or proceeding filed after the effective date of this Act and every fourteenth case or proceeding thereafter filed shall be docketed in the 11th Judicial District Court; and the second case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 55th Judicial District Court; and the third case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 61st Judicial District Court; and the fourth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 80th Judicial District Court; and the fifth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 113th Judicial District Court; and the sixth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 125th Judicial District Court; and the seventh case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 127th Judicial District Court; and the eighth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 129th Judicial District Court; and the ninth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 133rd Judicial District Court; and the tenth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 151st Judicial District Court; and the eleventh case or proceeding filed and every fourteenth case or proceed-

ing thereafter filed shall be docketed in the 152nd Judicial District Court; and the twelfth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 157th Judicial District Court; and the thirteenth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 164th Judicial District Court; and the fourteenth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 165th Judicial District Court. All cases or proceedings in this manner shall be docketed in and divided and distributed among said fourteen (14) Civil District Courts, one-fourteenth ($\frac{1}{14}$ th) to each of them when first filed. All suits and proceedings shall be filed by the Clerk in the order in which the petitions are presented to or deposited with him, and immediately after being so presented or deposited. In case of the disqualification of the Judge of any of said fourteen (14) Civil Courts, in any case or proceeding, such case or proceeding, on his suggestion of disqualification, shall be transferred to another of said Courts, and the order of transfer may be made by any Judge of another of said Courts and may be transferred to any other of said Courts, or instead of transferring the case the Judge of any other of said Courts may sit in the Court in which the case is then pending and there try the same, and all transferred cases or proceedings shall be docketed by the Clerk accordingly. The Judges of said fourteen (14) Civil Courts shall sign the minutes of each term of the Courts in Harris County within thirty (30) days after the end of the term, and shall also sign the minutes at the end of each volume of the minutes, and each Judge sitting in said Courts shall sign the minutes of such proceedings as were had before him.

The Judge of each Court hereby created may take the same vacation provided for the other Judges of the District Courts and Criminal District Courts of Harris County, Texas. During such vacation time the term of Court of which he is Judge shall remain open and the Judge of any other Civil District Court in Harris County may hold such Court during the vacation of the Judges thereof. During the period of such vacation it shall not be lawful for a Special Judge of such Court to be elected by the practicing lawyers of such Court because of the absence of the Judge on his vacation, unless no Judge of said Civil District Courts is in the county. The Judges of said Courts shall, by agreement among themselves, take their vacation alternately so that there shall at all times be at least six (6) of said Judges in the county; and in the event of the absence, sickness or disqualification of the Judge of any of said Civil District Courts any of the other Judges of the said District Courts may act and preside or any regular practicing lawyers of the Bar of Harris County, Texas, may be elected who have the qualifications of a District Judge to act and preside over any of the said Courts during such absence, sickness or inability of any of the regular judges to act and preside therein; and such Special Judges shall be elected according to Title 40 of the Revised Civil Statutes of the State of Texas of 1925.¹

The Clerk of the District Courts of Harris County, upon the taking effect of this Act, shall prepare promptly dockets for the Courts so created by this Act and shall place on the dockets of said 164th and 165th District Courts, the thirteenth and fourteenth case, respectively, pending on the respective dockets of the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd and 157th District Courts. The cases so transferred shall bear the same docket numbers as in the Courts from which they are transferred and the Judges of the existing District Courts, respectively, shall make proper orders transferring from such Courts to the

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

164th and 165th District Courts the cases which have been placed on the docket of the 164th and 165th District Courts in pursuance of this Section.

The respective Judges of the District Courts of Harris County shall, from time to time as occasion may require, transfer cases from any one of such Courts to any other such Court in order that the business may be equally distributed among them, that the Judges thereof 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, that 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 such order on the minutes shall be notice of the transfer to the attorneys of record of all parties to the cause. As amended Acts 1963, 58th Leg., p. 1332, ch. 507, § 3(B).

¹ Article 1884 et seq.

Emergency. Effective Sept. 1, 1963.

Acts 1963, 58th Leg., p. 1332, ch. 507, § 3(B), introductory paragraph, provides that, "So much of Article 199, Revised Civil Statutes of 1925, as amended, as relates to the District Courts of Harris County, Texas, is hereby amended so as hereafter to read as follows:"

The provisions of Article 199 relating to the District Courts of Harris County, as amended by Acts 1959, 56th Leg., p. 903, ch. 414, relate also to the Criminal District Courts of Harris County. The 1959 Act constitutes a composite amendment of not only Article 199 of the Civil Statutes but, also, of Article 52 of the Code of Criminal Procedure.

Acts 1963, 58th Leg., p. 1332, ch. 507, § 3(C), provided:

"(C) All laws and parts of laws in conflict with the provisions of this Section are hereby repealed to the extent of such conflict only. As to all other laws or parts of laws, this Section shall be cumulative."

Appointment, election, qualifications and compensation of judges of 164th and 165th Judicial Districts, see note under art. 199 (162).

Creation of additional district courts in and for Harris County, see art. 199(164, 165).

14, 44, 68, 95, 101, 116, 134. — Dallas; Criminal Judicial District; Criminal Judicial District No. 2; Criminal Judicial District No. 3

Criminal Judicial District No. 4 of Dallas County, see art. 199(162).

32. — Nolan, Mitchell and Fisher

Acts 1963, 58th Leg., p. 1332, ch. 507, § 4(B), introductory paragraph provides: "So much of Article 199 of the Revised Civil Statutes of Texas, 1925, as amended, as re-

lates to the District Courts of Bexar County, Texas, is hereby amended so as to hereafter read as follows:"

37, 45, 57, 73, 131, 144, 150, 166, 175—Bexar

[(A). See art. 199(166)].

(B). Bexar County shall constitute the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, and 175th Judicial Districts of Texas. Each of the said nine (9) District Courts shall have and exercise civil and criminal jurisdiction in Bexar County, Texas. Said District Courts shall have and exercise, in addition to the jurisdiction now conferred or to be conferred by law on said Courts, concurrent jurisdiction coextensive with the limits of Bexar County, Texas, in all actions, proceedings, matters and

causes, both civil and criminal, of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

(C) The present Judges of the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, and 175th Judicial Districts of Bexar County, Texas, shall continue as Judges of said Courts as constituted and defined by this Act, and the tenure of office of said Judges shall remain the same as is now provided by law.

(D) There shall be two (2) terms of the 37th, 45th, 57th, 73rd, 131st, 150th, and 166th District Courts in Bexar County, Texas, in each year, and the first term shall begin on the first Monday in January each year and shall continue until and including Sunday next before the first Monday in July of each year; and the second term shall begin on the first Monday in July of each year and shall continue until and including the Sunday next before the first Monday in the following January.

(E) The 144th District Court and the 175th District Court of Bexar County, Texas, shall hold six (6) terms of court each year for the trial of causes and the disposition of business coming before such Courts, one term beginning the first Monday in January; one the first Monday in March; one the first Monday in May; one the first Monday in July; one the first Monday in September; one the first Monday in November; each term to last for two (2) months. Each term shall continue until the business is disposed of.

(F) The practice and procedure of said Courts shall be the same as now prescribed by law and, in civil actions, as also provided by the Texas Rules of Civil Procedure applicable to District Courts having successive terms.

(G) All indictments shall be returned to the 144th District Court of Bexar County, Texas, and the 175th District Court of Bexar County, Texas. The District Clerk of Bexar County shall docket successively on the dockets of the District Courts of the 37th, 45th, 57th, 73rd, 131st, 150th, and 166th Judicial Districts in Bexar County all civil cases, actions, causes, petitions, applications, or other proceedings so that the first case or proceeding filed on or after the effective date of this Act and every eighth case or proceeding thereafter shall be docketed in the 37th Judicial District; and the second case or proceeding filed and every eighth case or proceeding thereafter filed shall be docketed in the 45th Judicial District; and the third case or proceeding filed and every eighth case or proceeding thereafter filed shall be docketed in the 57th Judicial District; and the fourth case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 73rd Judicial District; and the fifth case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 131st Judicial District; and the sixth case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 150th Judicial District; and the seventh case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 166th Judicial District; and so on seriatim; and in this manner all cases or proceedings filed to be docketed in and divided equally among the 37th, 45th, 57th, 73rd, 131st, 150th, and 166th Judicial District Courts, one-seventh ($\frac{1}{7}$) in each Court.

(H) The District Judges of Bexar County, Texas, shall, on or before the first day of January and the first day of July of each year, or at such other times as may be determined by a majority of the said District Judges, elect one of the said District Judges to serve as Presiding Judge of the Bexar County District Courts for a period of time to be set by said Judges.

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The Presiding Judge of the Bexar County District Judges shall, when this Act becomes effective and from time to time as occasion may require in order to adjust the business and dockets of said Courts, transfer, or cause to be transferred, upon the approval of the Judges of said Courts, causes for any of the said Courts to any other of the said Courts in order that the business of the said Courts shall be continually equalized and distributed among them to the end that each Judge shall be at all times provided with cases or proceedings to try or otherwise consider and that the trial of a cause shall not be delayed because of the disqualification of the Judge in whose Court it is pending. When a case is transferred, proper order shall be entered upon the minutes of the Court as evidence thereof. It is the intention of this Section that the 144th District Court and the 175th District Court of Bexar County, Texas, shall give preference to criminal cases, matters, or proceedings, while the other District Courts shall give preference to civil cases, matters or proceedings. For such purposes, the 144th and 175th District Courts shall constitute the Criminal District Courts of Bexar County, Texas, while the other District Courts shall constitute the Civil District Courts of Bexar County, Texas. The Judges of the said District Courts shall sign the minutes of each term of said Court in Bexar County, Texas, within thirty (30) days after the end of the term and shall also sign the minutes at the end of each volume of the minutes, and each Judge sitting in said Courts shall sign the minutes of such proceedings as were had before him.

(I) In the absence, except as otherwise provided herein, sickness, or disqualification of a Judge of any of the District Courts of Bexar County, Texas, any of the other Judges of the said District Courts may act and preside; or any regularly practicing lawyer of the Bar of Bexar County, who has all the qualifications of a District Judge, may be elected to act and preside over any of the said Courts during such absence, sickness, or inability of any of the regular Judges to act and preside therein; such Special Judge to be elected according to Title 40 of the Revised Civil Statutes of the State of Texas, 1925, as amended.

(J) All bail bonds, recognizances or other obligations, taken for the appearance of the defendants, parties and witnesses in any of the said District Courts of Bexar County, Texas, or any inferior Court of Bexar County, Texas, shall be binding on all such defendants, parties and witnesses and their sureties for appearance in any of said Courts in which said cause may be pending or to which same may be transferred. In all cases transferred from one of the said Courts to another, all process, bonds, recognizances and obligations extant at the time of such transfer shall be returned to and filed in the Court to which the case is transferred and shall be valid and binding as though originally issued out of the Court to which it is transferred.

(K) Each Judge of the said District Courts of Bexar County, Texas, may take a vacation between the first day of June and the first day of October in each year, during which time the terms of Court of which he is Judge shall remain open and the Judge of any other District Court may hold such Court during the vacation of the Judge thereof. During the period of such vacation, it shall not be lawful for a Special Judge of such Court to be elected by the practicing lawyers of such Court because of the absence of the Judge on his vacation, unless no Judge of the said District Courts is in the County. The Judges of the said District Courts shall by agreement among themselves take their vacations alternately so that there shall be at all times at least five (5) of the said Judges in the County during such vacation period.

(L) The Judge of each of the several District Courts shall appoint an official court reporter for his Court as provided by the General Law who will be compensated as provided by law.

(M) The Sheriff of Bexar County, as hereinafter provided, either in person or by deputy, shall attend the several District Courts as required by law, or when required by the Judges thereof, and the Sheriff and Constables of the several counties of this State, when executing process out of said Courts, shall receive fees as provided by the General Law for executing process issued out of the District Courts. The Sheriff of Bexar County shall, upon the effective date of this Act, appoint one deputy to serve as bailiff for each of said District Courts of Bexar County, Texas; provided that an additional deputy shall be appointed for the 144th District Court and an additional deputy shall be appointed for the 175th District Court, both of which Courts must give preference to the trial of criminal cases, matters, or proceedings. The persons thus appointed as such deputies must be acceptable to the Judge of the Court to which he or they are appointed or assigned, and said appointments for each of said Courts must be approved and confirmed in writing by the Judge of said Court before the same becomes effective. The said Deputy Sheriffs shall, before assuming their respective duties, take the oath of office prescribed by the Constitution of Texas; and the Sheriff of Bexar County shall have the power and authority to require said deputies to furnish bonds in such amount, conditioned, and payable as may be prescribed by the said Sheriff or provided by law. The said deputies shall act in the name of their principal, and they may do and perform all such official acts as may be lawfully done and performed by the Sheriff of Bexar County in person. The said deputies shall, from and after their said appointment, confirmation and qualification, as hereinabove provided, continue as such respective deputies at the pleasure of the Judge of the Court to which he or they may have been appointed; and should any of the said Judges, for any reason whatsoever, not further desire the services of the said Deputy Sheriff or Deputy Sheriffs, the Sheriff of Bexar County shall, upon the request of such Judge, appoint another deputy for such Court, such appointment, however, to be made in the manner as hereinabove provided. It shall be the duty of the said deputies to attend all sessions of the said District Courts and also perform and render such services in and for said Courts, and for the Judges thereof, as are usually and generally performed and rendered by Sheriffs and deputies in and about the several District Courts throughout this State, and including the serving of any and all process, subpoenas, warrants, and writs of any and all kinds and nature in both civil and criminal cases, matters and proceedings; and it shall be the duty of said Deputy Sheriffs to also perform and render any and all other services that may from time to time be assigned them or to any of them by the Judges of said Courts. The said deputies shall have, possess and enjoy the same rights, powers, authority and privileges that the Sheriffs and their deputies throughout the State may or may hereafter possess and enjoy. The said Deputy Sheriffs are authorized and empowered to act for one another, and it shall be their duty to so act for one another when required to do so by any of the Judges of the said Courts or by the said Sheriff; but said deputies thus acting for one another shall not be entitled to receive nor shall they receive any additional compensation. The Sheriff of Bexar County shall, in the event of a vacancy, caused by any reason whatsoever, immediately appoint another deputy for such Court in which a vacancy may occur, such appointment, however, to be subject to the approval and written confirmation of the Judge of the Court in which such vacancy may exist. The salary of the said deputies appointed for each of the said

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District Courts shall be determined and fixed by the Judge of the said Court in any sum not less than Three Thousand, Nine Hundred Dollars (\$3,900) annually. The said annual salaries to be paid to the said deputies, when fixed by said Judges as herein provided, shall be paid to them either monthly or twice monthly out of such fund of Bexar County as provided by law for the payment of salaries of the several deputies of the Sheriff of Bexar County, Texas, and such payment of said salaries shall be made in the manner provided by law. Provided that nothing herein shall be construed as preventing the Sheriff of Bexar County from assigning additional deputies to any of the said District Courts when circumstances so require, or when requested to do so by the Judge of any of the said District Courts. Provided that nothing contained in this Section of this Act is intended to change or alter the duties and the powers of the Sheriff of Bexar County, Texas, except as herein specifically and expressly stated.

(N) The Clerk of the District Courts of Bexar County shall be the Clerk of the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, and the 175th District Courts of Bexar County, Texas, and shall be compensated as provided by law. The District Clerk of Bexar County, Texas, shall, upon the effective date of this Act, appoint a deputy for each of the said District Courts; provided, however, that the persons thus appointed must be acceptable to the respective Judges of the said Courts, and such appointment for each of the said Courts must be confirmed in writing by the Judge thereof before it becomes effective. The said deputies thus appointed shall, before assuming their respective duties, take the oath of office as prescribed by the Constitution of Texas; and the District Clerk of Bexar County, Texas, shall have the power and authority to require said deputies to furnish bonds in such amount, conditioned and payable as may be prescribed by the said District Clerk or provided by law. The said Deputy District Clerks shall act in the name of their principal, and they, and each of them may do and perform all such official acts as may be lawfully done and performed by the said District Clerk in person; and it shall be the duty of each of the said deputies to attend all sessions of the District Court to which he has been appointed, and perform such services in and for said Court as are usually performed by the District Clerk and their deputies in the several District Courts of this State; and the said deputies shall also perform any and all other services that may from time to time be assigned them by the Judges of the said Courts. The said deputies to be appointed for the District Courts are authorized to act for one another in any matter pertaining to the clerical business of the said Courts, and it shall be their duty to thus act for one another when requested to do so by the Judges of the said Courts, or by the said District Clerk; but such deputies acting for one another shall not be entitled to receive, nor shall they receive, any additional compensation. The said deputies shall, from and after their said appointment, confirmation and qualification, as herein provided, continue as the respective deputies at the pleasure of the Judges of the said Courts; and should any of the said Judges, for any reason whatsoever, not further desire the services of the said Deputy District Clerk assigned to his Court, the District Clerk of Bexar County, Texas, shall, upon request of such Judge or Judges, appoint another deputy for such Court or Courts, such appointment, however, to be made in the manner as hereinabove provided. In the event of a vacancy, caused by any reason whatsoever, the District Clerk of Bexar County, Texas, shall immediately appoint another deputy for the Court in which a vacancy has occurred, such appointment, however, shall be with the written approval and confirmation of the Judge of the Court in which a vacancy has occurred. The salary of the Deputy District Clerk appointed for each of the said

District Courts of Bexar County, Texas, shall be determined and fixed by the respective Judges of the said Courts in any amount not less than Four Thousand, Four Hundred Dollars (\$4,400) annually; said annual salaries to be paid to said Deputy District Clerks either in equal monthly or twice monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the District Clerk of Bexar County, Texas, and such payment of said salaries shall be made in the manner provided by law. Provided that nothing herein shall be construed as preventing the District Clerk of Bexar County, Texas, from assigning additional deputies to any of said Courts when circumstances so require, or when requested to do so by the Judge of any of the said District Courts. Provided that nothing contained in this Section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being exercised by the District Clerk of Bexar County, Texas, except as herein specifically and expressly stated.

(O) The Criminal District Attorney of Bexar County shall be the District Attorney of the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, and the 175th District Courts of Bexar County, Texas, and shall be compensated as provided by law.

(P) Each of the said District Courts shall have an official seal as now provided by law for District Courts.

(Q) The District Judges of the 144th and 175th District Courts shall alternately appoint grand jury commissioners and empanel grand juries; and further, they may appoint grand jury bailiffs, not to exceed seven (7). Each Judge may appoint three (3) of such bailiffs, and, if needed, may jointly appoint the seventh such bailiff. Bailiffs thus appointed are subject to removal at the will of the Judge or Judges so appointing them.

(R) The procedure for drawing jurors for said Courts shall be the same as is now or may hereafter be provided by law.

(S) The compensation of each Judge shall be the same as the compensation paid the Judges of the other District Courts, including the expenses as now provided by the laws of this State, and the compensation shall be paid in the manner in which other District Judges of the State are paid.

(T) It is expressly provided that nothing herein shall be construed as repealing any provision of Senate Bill No. 89, Acts, 1961, Fifty-seventh Legislature, page 38, Chapter 24, changing the names and designations of the Criminal District Court of Bexar County, Texas, and the Criminal District Court Number 2 of Bexar County, Texas, to the 144th District Court and the 175th District Court of Bexar County, Texas, respectively. All other laws and parts of laws in conflict with the provisions of this Section are hereby repealed to the extent of such conflict only; as to all other laws or parts of laws, this Section shall be cumulative. As amended Acts 1963, 58th Leg., p. 1332, ch. 507, § 4(B).

Emergency. Effective Sept. 1, 1963.

Acts 1963, 58th Leg., p. 1312, ch. 501, § 14 provided:

"Sec. 14. The sentence of article 199 (37) of Vernon's Revised Civil Statutes which reads as follows:

'The Criminal District Attorney of Bexar County shall be the District Attorney of the 37th, 45th, 57th, 73rd, and Special 37th District Courts and the Criminal District Courts and shall be compensated as provided by law.' is hereby repealed. It is the intention of this Legislature that this sentence only is repealed and nothing

herein contained shall alter, amend or change any other portion of the Act quoted."

Acts 1963, 58th Leg., p. 1332, § 4(A), creating one additional District Court in and for Bexar County, is incorporated in article 199(166).

Appointment, election, qualifications and compensation of judge of 166th Judicial District, see note under art. 199(162).

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

53, 98, 126. — Travis

167th Judicial District of Travis County, see art. 199(167).

70. — Midland and Ector

Ector county, see also 161st Judicial District.

84. — Hutchinson, Hansford and Ochiltree

84. The 84th Judicial District of the State of Texas, shall be composed of the Counties of Hutchinson, Hansford and Ochiltree, and the terms of the District Court shall be held therein each year as follows:

Hutchinson County: Beginning on the First Monday of June of each year; and on the Fourth Monday of November of each year.

Hansford County: Beginning on the Third Monday of March of each year; and on the Second Monday of September of each year.

Ochiltree County: Beginning on the Fourth Monday of April of each year; and on the Second Monday of October of each year.

Each term of court in each of such counties shall continue until 10:00 a. m. of the Monday herein fixed for the beginning of the next succeeding term thereof.

The judge of said court, in his discretion, may hold as many sessions of court in any term of the court in any county in said district as is deemed by him proper and expedient for the dispatch of business. As amended Acts 1963, 58th Leg., p. 82, ch. 51, § 1.

Emergency. Effective April 12, 1963.

Acts 1963, 58th Leg., p. 83, ch. 51, § 2 provided: "All process issued, bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect

shall be valid for and returnable to the next succeeding term of the District Court of each county as herein fixed, as though issued and served for such terms and returnable to and drawn for the same."

128. — Orange

Additional judicial district for Orange County, see art. 199(163).

136. — Jefferson

Criminal district court of Jefferson County, see Vernon's Ann.C.C.P. art. 52—160 et seq.

150. — Bexar

Sec. 16. Repealed. Acts 1963, 58th Leg., p. 1312, ch. 501, § 15. Eff. 90 days after May 24, 1963, date of adjournment.

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

155. — Austin, Caldwell, Comal, Fayette, Hays

Sec. 5. (a) The District Attorney of the 22nd Judicial District shall also act as District Attorney in and for the 155th Judicial District. From and after September 1, 1963, the District Attorney of the 22nd Judicial District shall receive a supplemental salary, in addition to his sal-

ary as the District Attorney of the 22nd Judicial District, in the amount of Two Thousand, Five Hundred Dollars (\$2,500) per year, while acting as the District Attorney of the 155th Judicial District. Such supplemental salary shall be paid in twelve (12) equal monthly installments upon warrants drawn by the Comptroller of Public Accounts upon the State Treasury. Provided that this Act shall not be construed as repealing any Act which allows the District Attorney of the 22nd Judicial District a salary, traveling expenses or any other allowances.

(b) The district clerk of each of the respective counties included in the 22nd Judicial District shall be the clerk of the District Court of the 155th Judicial District in each respective county and each clerk shall keep a docket for the 155th District Court. As amended Acts 1963, 58th Leg., p. 946, ch. 374, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

161. — Ector

Sec. 6. The letters "A" and "B" shall be placed on the docket and the court papers of the respective district courts of Ector County to distinguish them, the letter "A" being used in connection with the 70th District Court, and the letter "B" being used in connection with the 161st District Court. All criminal cases shall be filed and docketed by the district clerk of Ector County in rotation from "A" through "B" as such cases are filed or in any other manner as directed by the district judges of Ector County. Civil cases shall not be filed and docketed on a rotation basis. Civil cases shall be filed and docketed by the district clerk in the court designated by the pleadings of the party filing the case, and in the event the pleadings do not specify that the case is to be filed in either the 161st District Court or the 70th District Court, the district clerk may file such case in either of said Courts, at the clerk's discretion. As amended Acts 1963, 58th Leg., p. 128, ch. 75, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

162. — Dallas

(A) There is hereby created effective October 1, 1963, in and for Dallas County, Texas, one additional Judicial District Court to be known as the District Court for the 162nd Judicial District of Dallas County, Texas. The limits of said District shall be coextensive with the limits of Dallas County, Texas.

(B) There is hereby created effective September 1, 1963, in and for Dallas County, Texas, one additional Criminal Judicial District to be known as Criminal Judicial District Number 4 and the Court of said District shall be known as the Criminal District Court Number 4 of Dallas County, Texas. The limits of said District shall be coextensive with the limits of Dallas County, Texas.

(C) The District Court for the 162nd Judicial District shall have and exercise the powers conferred by the Constitution and laws of the State of Texas on the judges of the District Courts of Dallas County, Texas. The jurisdiction of said Court shall be concurrent with that of the existing District Courts of Dallas County, Texas. The Criminal District Court Number 4 shall have and exercise the powers conferred by the Constitution and laws of the State of Texas on the judges of the existing Criminal District Courts of Dallas County, Texas, and the jurisdiction of said Court shall be concurrent with that of the existing Criminal District Courts of

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Dallas County, Texas. All of said Courts hereby created shall have and exercise, in addition to the jurisdiction now conferred by law on said Courts, concurrent jurisdiction coextensive with the limits of Dallas County in all actions, proceedings, matters and causes both civil and criminal of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

(D) The terms of each of said District Courts shall begin on the first Monday of January and July of each year, respectively and the term of each of said Courts shall continue until the convening of the next succeeding term.

(E) The judge of each of the Courts hereby created is authorized to appoint an official court reporter for his court and said court reporter shall have the qualifications now required by law for official shorthand reporters. Each such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the judge of the court to which the reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the District Courts of Dallas County, Texas, under the laws of this State.

(F) The letter "I" shall be placed on the docket and court papers of the 162nd District Court. As soon as possible after this Act takes effect the District Clerk of Dallas County, Texas, shall, under the direction of the presiding judge of the District Judges of Dallas County, cause the civil dockets to be equalized in each of the District Courts handling civil matters in Dallas County by transferring pending cases from existing District Courts to the District Courts created by this Act as will be necessary to equalize the dockets of each of the District Courts; and thereafter civil cases shall be docketed by the District Clerk in rotation from A through I as such cases are filed or in any other manner as directed by the presiding judge of the District Judges of Dallas County. The District Clerk, similarly, shall equalize the dockets of the Criminal District Courts of Dallas County by transferring cases from the Criminal District Court, the Criminal District Court Number 2 and the Criminal District Court Number 3 to the Criminal District Court Number 4.

(G) The judge of any of the District Courts in Dallas County may in his discretion try and dispose of any causes, matters or proceedings for any other judge of said Courts. Either of the judges of said District Courts of Dallas County may at his discretion at term time or in vacation transfer a case or cases to said other District Court with the consent of the judge of said other District Court by order entered in the minutes of his court. When such transfer is ordered, the District Clerk of Dallas County shall certify all orders made in said case and such certified copies of such orders together with the original papers shall be filed among the papers of the case thus transferred and the fees thereof shall be taxed as part of the costs of said suit and the Clerk of said Court shall docket any such case in the Court to which it shall have been transferred, and when so entered, the Court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said Court. All process and writs issued out of the District Court from which any such transfer is made shall be returnable to the Court to which said transfer is made.

(H) The District Attorney of Dallas County shall also be the District Attorney for the additional Courts created by this Section.

(I) The District Clerk of Dallas County, Texas, shall also act as District Clerk for the 162nd Judicial District, and the Criminal District Court Number 4.

(J) The Sheriff of Dallas County either in person or by deputy shall attend the Courts created by this Section as required by law or when required by the respective judges thereof and the sheriff and constables of the several counties of this State when executing processes out of said Courts shall receive fees as provided by General Law for executing processes issued out of District Courts.

(K) All processes, writs, bonds, recognizances or other obligations issued out of the District Courts or Criminal District Courts of Dallas County are hereby made returnable to the said District Courts of Dallas County as required by law and all bonds executed and recognizances entered by and in said Courts shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Courts as fixed by law and this Section and all processes heretofore returned or hereafter returned to the District Courts of Dallas County shall be valid.

(L) Except as herein otherwise provided, all laws and parts of laws applicable to District Courts and Criminal District Courts of Dallas County shall be applicable to the Courts created by this Section. Acts 1963, 58th Leg., p. 1332, ch. 507, § 1.

Emergency. Effective Sept. 1, 1963.

Acts 1963, 58th Leg., p. 1332, ch. 507, which created additional district courts for judicial districts numbers 162 through 167, provided in section 6: "The Governor shall appoint a suitable person as Judge, respectively, of each of said District Courts herein created, each of whom shall hold office until the next General Election and until his successor has been duly elected and qualified. At the first General Election after the creation of said District Courts provided for herein the Judge of each of said Courts shall be elected for a term of four (4) years. Such persons so appointed and elected shall have the qualifications provided by the Constitution and the laws for this State for District Judges. The Judge of each of the Courts created

by this Act shall draw the same compensation that is provided by the laws of the State of Texas for District Judges of the respective counties where the Courts herein created are located."

Criminal District Court No. 3 of Dallas County, see Vernon's Ann.C.C.P. art. 52-24c.

Criminal Judicial District of Dallas County, see art. 199(14).

Dallas County Criminal District Courts, see Vernon's Ann.C.C.P. art. 52-1.

Special criminal district court at Dallas County, see Vernon's Ann.C.C.P. art. 52-24b.

163. — Orange

(A) There is hereby created effective September 1, 1963, an additional Judicial District in and for the County of Orange, State of Texas, the limits of which District shall be coextensive with the limits of said County. Said Judicial District shall be known as the 163rd Judicial District.

(B) The District Court for the 163rd Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and laws of this State for district courts in general. The judge thereof shall have and exercise the powers conferred by the Constitution and laws of this State on the judges of the district courts in general. The jurisdiction of said Court shall be concurrent with that of the 128th District Court in Orange County.

(C) The terms of the 163rd District Court shall begin on the first Monday in January, May and September of each year, respectively, and each term of said Court shall continue until the convening of the next succeeding term.

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(D) The Judge of the Court created by this Section shall draw the same compensation that is provided by the laws of the State of Texas for the Judge of the 128th District Court.

(E) The Judge of the 163rd District Court is authorized to appoint an official court reporter for this Court and said court reporter shall have the qualifications now required by law for official shorthand reporters. Such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the Judge of the Court to which the reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the District Court of Orange County under the laws of this State.

(F) The letters "A" and "B" shall be placed on the docket and the court papers of the respective District Courts of Orange County to distinguish them, the letter "A" being used in connection with the 128th District Court and the letter "B" being used in connection with the 163rd District Court. As soon as possible after this Act takes effect the District Clerk of Orange County shall, under the direction of the District Judges of said Courts, cause the civil and criminal dockets to be equalized in the number of cases pending in each of the existing Courts; and thereafter civil and criminal cases shall be docketed by the District Clerk in rotation from "A" through "B" as such cases are filed, or in any other manner as directed by the said District Judges.

(G) The Judge of either of the District Courts may at his discretion try and dispose of any causes, matters or proceedings for the other Judge of said Courts. Either of the Judges of said District Courts may at his discretion at term time or in vacation transfer a case or cases to said District Court with the consent of the Judge of said other District Court by order entered in the minutes of his Court. When such transfer is ordered, the District Clerk of Orange County shall certify all orders made in said cases and such certified copies of such orders, together with the original papers, shall be filed among the papers of the case thus transferred and the fees thereof shall be taxed as part of the cost of said suit and the Clerk of said Court shall docket any such case in the court to which it shall have been transferred, and when so entered, the court to which the same shall have been transferred shall have like jurisdiction therein as in cases originally filed in said Court. All process and writs issued out of the District Court from which any such transfer is made shall be returnable to the Court to which said transfer is made, according to the terms of the District Court or the respective court as fixed by this Act.

(H) The District Clerk of Orange County shall also act as District Clerk for the 163rd District Court of Orange County.

(I) The District Attorney in and for the 128th Judicial District Court shall also act as the District Attorney for the 163rd Judicial District Court created herein.

(J) The Sheriff of Orange County shall attend either in person or by deputy the 163rd District Court, as required by law in Orange County or when required by the Judge thereof, and the Sheriff and constables of the several counties of this State when executing process out of said Courts shall receive fees provided by General Law for executing process out of District Courts.

(K) All processes, writs, bonds, recognizances or other obligations issued out of the District Courts of Orange County are hereby made re-

turnable to the terms of the District Courts of Orange County as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered by and in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances heretofore taken in the 128th District Court shall be valid.

(L) All grand and petit juries drawn and selected under existing laws in Orange County shall be considered lawfully drawn and selected for either the 163rd District Court or the 128th District Court, and may be used interchangeably in connection with said Courts.

(M) Except as otherwise provided in this Act, all laws now in effect with respect to the 128th District Court of Orange County shall apply to the 163rd District Court created by this Section. Acts 1963, 58th Leg., p. 1332, ch. 507, § 2.

Emergency. Effective Sept. 1, 1963.

Appointment, election, qualifications and compensation of judge of the 163rd Judicial District, see note under art. 199(162). District Court of Orange County, see art. 199(128).

164, 165. — Harris

There are hereby created in and for Harris County, Texas, two (2) additional District Courts, the limits each of which shall be coextensive with the limits of Harris County, Texas. Said Courts shall be known, respectively, as the 164th and 165th District Courts; the 164th District Court shall be effective September 1, 1963, and the 165th District Court shall be effective June 1, 1964. Acts 1963, 58th Leg., p. 1332, ch. 507, § 3(A).

Emergency. Effective Sept. 1, 1963.

Appointment, election, qualifications and compensation of judges of 164th and 165th Judicial Districts, see note under art. 199(162). Judicial districts in Harris County, see art. 199(11).

166. — Bexar

There is hereby created effective February 1, 1964, one (1) additional District Court in and for Bexar County, Texas, to be known as the 166th Judicial District Court. The limits of such District Court shall be coextensive with the limits of Bexar County, Texas. Acts 1963, 58th Leg., p. 1332, ch. 507, § 4(A).

Emergency. Effective Sept. 1, 1963.

Appointment, election, qualifications and compensation of judge of 166th Judicial District, see note under art. 199(162). Judicial district in Bexar County, see art. 199(37).

167. — Travis

(A) There is hereby created effective June 1, 1964, the 167th Judicial District to be composed of and to have its boundaries coextensive with the boundaries of Travis County, Texas; and there is also hereby created the 167th Judicial District Court of Travis County, Texas.

(B) The 167th Judicial District Court of Travis County, Texas, shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the Constitution and Laws of Texas to district courts.

(C) The terms of the 167th Judicial District Court of Travis County, Texas, shall begin on the first Monday in March and the first Monday in

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September of each year and each term of said Court shall continue until the convening of the next succeeding term.

(D) The Judge of said District Court shall have the right to select jury commissioners and empanel grand juries and may order both grand and petit juries to be drawn for such terms of his Court as in his judgment is necessary, by an order entered in the minutes of said Court.

(E) The Judge of said District Court is authorized to appoint an official Court Reporter for said Court who shall have the qualifications and receive the same compensation as are now, or may hereafter be, fixed by law for court reporters in district courts.

(F) The Sheriff, District Attorney, County Attorney, and the Clerk of the District Courts of Travis County, as heretofore provided for by law, shall be the Sheriff, District Attorney, County Attorney, and Clerk, respectively, of the 167th Judicial District Court herein created under the same rules and regulations as are now or may hereafter be prescribed by law for sheriffs, district attorneys, county attorneys, and clerks of the district courts of the State; and said Sheriff, District Attorney, County Attorney, and Clerk shall respectively receive such compensation as is now or may hereafter be prescribed by law for such officers in the district courts of this State to be paid in the same manner.

(G) The Judge of said Court may, in his discretion, either on motion of any party or on agreement of the parties or on his own motion transfer any cause, civil or criminal, on his docket to the docket of one of the other District Courts of Travis County, Texas, and any of the Judges of the other District Courts in Travis County, Texas, may, in his discretion, either on motion of any party or on agreement of the parties or on his own motion, transfer any cause, civil or criminal, on his docket, to the docket of said 167th Judicial District Court of Travis County, Texas, and the Judge of any of the District Courts of Travis County, Texas, may, in his discretion, exchange benches with any other District Judge in Travis County, Texas from time to time; and whenever a judge of any of said District Courts is disqualified, he shall transfer the case from his Court to one of the other District Courts in said County and any of the Judges of the District Courts of Travis County may in his own courtroom try and determine any case or proceeding pending in any of the other District Courts of Travis County, without having the case transferred or may sit in any of the other of said Courts and there hear and determine any case there pending and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two (2) or more judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness, or disqualification of any of said District Judges of Travis County, any other of said Judges may hold court for him. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case and any other of said Judges may complete the hearing and render judgment in the case. Any of said Judges may hear and determine exceptions, motions, petitions for injunction, applications for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trial and all preliminary matters, questions, and proceedings, and may enter judgment or order thereon in the Court in which the case is pending, without having the case transferred to the Court of the Judge acting and the Judge in whose Court the case is pending may thereafter proceed to hear, complete, and determine the case or other matter or any part thereof and render final judgment

thereon. Any of the Judges of said Courts may issue restraining orders and injunctions returnable to any of the other judges of courts. Acts 1963, 58th Leg., p. 1332, ch. 507, § 5.

Emergency. Effective Sept. 1, 1963.

Appointment, election, qualifications and compensation of judge of 167th Judicial District, see note under art. 199(162).
Judicial districts in Travis county, see art. 199(53).

TITLE 11A—ASSIGNMENTS, IN GENERAL

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

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

Assignments of performing fees in broadcasting records or recordings, see art. 179c, §§ 2, 3.

TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

1. DISTRICT ATTORNEYS		Art.
Art.		
326k—43a.	Twenty-seventh judicial district; stenographers, assistants and investigators [New].	326k—49. First judicial district; supplemental salary of district attorney [New].
326k—48.	Eighty First judicial district; supplemental salary of district attorney [New].	326k—50. Criminal district attorney for Bexar County [New].
		326k—51. Criminal district attorney for Upshur County [New].

1. DISTRICT ATTORNEYS

Art. 322. [339] [276] [241] Districts may elect

The following Judicial Districts in this state shall each respectively elect a District Attorney, viz.: 1st, 2nd, 3rd, 5th, 7th, 8th, 9th, 12th, 21st, 22nd, 23rd, 24th, 25th, 27th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 69th, 70th, 72nd, 75th, 76th, 79th, 81st, 83rd, 90th, 100th, and 106th. There shall also be elected a Criminal District Attorney for Harris County, a Criminal District Attorney for Dallas County, a Criminal District Attorney for Tarrant County, and one Criminal District Attorney for the Counties of Nueces, Kleberg, Kenedy, Willacy and Cameron. As amended Acts 1963, 58th Leg., p. 1312, ch. 501, § 12.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 326. Hudspeth and Culberson Counties

District attorney and assistants in 34th judicial district, compensation, see art. 3886h.

Art. 326a. El Paso, Hudspeth, and Culberson Counties

District attorney and assistants in 34th judicial district, compensation, see art. 3886h.

Art. 326k—7. Assistant District Attorney in Fifty-third judicial district; salary

Duties and compensation of district attorney and assistants in fifty-third judicial district, see art. 326k—14.

Art. 326k—14. Fifty-third judicial district; duties and compensation of district attorney

Representation of state

Section 1. The District Attorney for the 53rd Judicial District shall represent the State in all criminal cases before the Criminal District Court of Travis County, Texas, the 53rd Judicial District Court, the 98th Judicial District Court, the 126th Judicial District Court, and all other District Courts of said County.

Assistants and secretaries

Sec. 2. The District Attorney shall appoint a First Assistant District Attorney and such other assistants and secretaries as shall be neces-

sary to the proper performance of his official duties. The number of assistants and secretaries to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of Travis County, Texas.

Compensation

Sec. 3. The District Attorney of the 53rd Judicial District shall be paid a salary in an amount not to exceed the total salary paid from State and county funds to the Judge of the Criminal District Court or other District Judges of Travis County nor less than the salary paid from State funds alone to the Judge of the Criminal District Court or other District Judges of Travis County, Texas. The First Assistant District Attorney shall receive a salary not less than Seven Thousand, Five Hundred Dollars (\$7,500) nor more than Ten Thousand Dollars (\$10,000) per year and other Assistant District Attorneys shall receive salaries not less than Five Thousand Dollars (\$5,000) nor more than Seven Thousand, Five Hundred Dollars (\$7,500) per year.

Payment of salaries

Sec. 4. The Commissioners Court of Travis County is hereby authorized to pay the salaries provided in Section 3 of this Act or to supplement the salaries of the District Attorney and Assistant District Attorneys paid by the State of Texas in such an amount that the total salaries paid shall not exceed the maximum provided herein. As amended Acts 1963, 58th Leg., p. 502, ch. 187, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Assistant district attorney in fifty-third judicial district, see art. 326k—7.

Art. 326k—25. Thirtieth Judicial District—Compensation of district attorney

Additional salary

Section 1. The District Attorney of the Thirtieth Judicial District of this State may be compensated for his services by an additional salary of not more than Five Thousand Dollars (\$5,000) per year. This is in addition to the salary now allowed by law. As amended Acts 1963, 58th Leg., p. 979, ch. 403, § 1.

Determination by Commissioners Court

Sec. 2. The salary to be paid as provided in Section 1 of this Act, may be fixed and determined by the Commissioners Court of Wichita County, Texas, and may be paid from the officers salary fund of said County, if adequate. If inadequate, the Commissioners Court may transfer the necessary funds from the general fund of the County to the officers salary fund. As amended Acts 1963, 58th Leg., p. 979, ch. 403, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 326k—27. Investigator for 118th Judicial District; adult probation officer

Section 1. The District Attorney of the 118th Judicial District is hereby authorized to appoint an investigator to perform such duties as may be assigned to him by the District Attorney. The investigator need not be licensed to practice law. He shall have authority to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the

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enforcement of all laws. He may be required to make a bond in an amount to be fixed by the District Attorney.

The investigator shall receive an annual salary in an amount to be fixed by the District Attorney of the 118th Judicial District not to exceed the amount paid to the Chief Deputy Sheriff, Howard County, or such greater sum as determined by the District Attorney with the approval of the County Commissioners, Howard County. In addition to his salary, the investigator shall be furnished an automobile for his use in the performance of his official duties, or, in the discretion of the County Commissioners of Howard County, shall be allowed the actual and necessary travel expense incurred by him in the proper discharge of his duties, not to exceed One Thousand, Two Hundred Dollars (\$1,200) a year. All claims for travel expense shall be approved by the District Attorney. The salary and automobile expense shall be paid from the General Fund, the Officers' Salary Fund, or any other available fund of Howard County. As amended Acts 1962, 57th Leg., 3rd C.S., p. 193, ch. 72, § 1.

Effective 90 days after Feb. 1, 1962, date of adjournment.

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

Commission; compensation

Sec. 4. The Criminal District Attorney of Galveston County, Texas, shall be commissioned by the Governor and shall receive as salary and compensation the following, and no more: a salary of Five Hundred Dollars (\$500) from the State of Texas as provided in the Constitution of the State of Texas for the salary of District Attorneys, and the sum of not less than Ten Thousand Two Hundred Dollars (\$10,200) per annum nor more than Eighteen Thousand Dollars (\$18,000) per annum to be paid out of the officers salary fund of Galveston County, if adequate, if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund. As amended Acts 1961, 57th Leg., p. 332, ch. 178, § 1; Acts 1963, 58th Leg., p. 922, ch. 353, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Assistants, investigators, and stenographers

Sec. 5. The Criminal District Attorney of Galveston County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court shall be and is hereby authorized to appoint one (1) first assistant and one (1) second assistant and fix their salaries as follows: said first and second assistant shall receive not less than Eight Thousand Four Hundred Dollars (\$8,400) per annum nor more than Eleven Thousand Dollars (\$11,000) per annum. The Criminal District Attorney of Galveston County, Texas, shall be and he is hereby authorized to appoint four (4) additional assistants in addition to the first and second assistant and fix their salaries as follows: two (2) of said additional assistants shall receive not less than Six Thousand Nine Hundred Dollars (\$6,900) per annum nor more than Nine Thousand Dollars (\$9,000) per annum, and two (2) assistants shall receive not less than Six Thousand One Hundred Eighty Dollars (\$6,180) per annum nor more than Eight Thousand Dollars (\$8,000) per annum.

The Criminal District Attorney of Galveston County may employ three (3) secretaries and pay said employees not less than Three Thousand Six Hundred Dollars (\$3,600) per annum nor more than Four Thousand Eight Hundred Dollars (\$4,800) per annum. All of the salaries mentioned in this

Section shall be payable from the officers salary fund, if adequate, if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

In addition to the salaries provided the Criminal District Attorney and his assistants, the Commissioners Court of Galveston County may allow such Criminal District Attorney and his assistants such necessary expenses as within the discretion of the court seem reasonable and said expenses shall be paid as provided by law for such other claims of expenses. As amended Acts 1961, 57th Leg., p. 332, ch. 178, § 1; Acts 1963, 58th Leg., p. 922, ch. 353, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 326k—43a. Twenty-seventh judicial district; stenographers, assistants and investigators

Application for appointment of assistants, investigators or stenographers; order authorizing employment

Section 1. Whenever the District Attorney of the 27th Judicial District shall require the services of assistants, investigators or stenographers in the performance of his duty, he shall apply to the Commissioners Court of any one or more of the counties comprising said 27th Judicial District for authority to appoint such assistants, investigators or stenographers, stating by written application the number needed, the position to be filled, and the amount to be paid. Upon receipt of such application the Commissioners Court or Commissioners Courts applied to may enter an order authorizing the employment of such assistants, investigators and stenographers and fix the compensation to be paid them.

Qualifications of assistants; duties

Sec. 2. The assistants to the District Attorney of the 27th Judicial District must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed on the District Attorney of the 27th Judicial District by law.

Qualifications of investigators; powers; expenses

Sec. 3. Investigators for the District Attorney need not be licensed to practice law. They shall have authority to make arrests and execute process in criminal cases, and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Furnishing office furniture and supplies

Sec. 4. Any one or more of the Commissioners Courts of the counties comprising the 27th Judicial District are authorized to furnish telephones, typewriters, office furniture, supplies, and such other items and equipment as may be deemed necessary to carry out the official duties of the District Attorney's office, and to pay necessary and essential expenses incident to carrying out the official duties of the District Attorney and his office. In addition to their salaries, the District Attorney, his assistants and investigators may be allowed actual and necessary travel expenses incurred in the proper discharge of their duties. The provisions of this Section shall not apply to that portion of the compensation and travel expense paid by the State of Texas to district officials and employees.

Supplemental salary

Sec. 5. The Commissioners Court of Bell County, Texas, in the 27th Judicial District of the State of Texas, is hereby authorized to supplement the salary paid by the State of Texas to the District Attorney of the 27th Judicial District of the State of Texas, by an additional salary of not less than One Thousand Five Hundred Dollars (\$1,500.00) per year. The amount of any such supplemental salary that may be paid by said Commissioners Court of said County shall be fixed and determined by the Commissioners Court of said Bell County. This supplemental salary that may be paid by the said Commissioners Court of Bell County, Texas, shall be paid in addition to the salary paid said District Attorney by the State of Texas under existing law or any amendments or additions thereto.

Payment of salaries and expenses

Sec. 6. Only the Commissioners Court or Commissioners Courts of the counties within the 27th Judicial District that authorize the employment of assistants, investigators and stenographers as provided in Section 1 hereof shall be responsible for the payment of their salaries and payment of expenses thereof and of the District Attorney as provided for in Section 4 of this Act. Any such expense agreed upon by the Commissioners Courts of more than one such county within said district shall be determined according to population of the counties. The salaries of any assistants, investigators, and stenographers as provided in Section 1 of this Act, and any expenditure authorized in Section 4 of this Act, and the supplemental salary of the District Attorney as provided in Section 5 of this Act, shall be paid from the Officers Salary Fund of the county or counties obligated by the terms of this Act, or the General Fund or any combination thereof at the discretion of the said Commissioners Courts. The compensation paid from county funds of the three counties comprising the 27th Judicial District to any person affected by this Act shall not be set at a figure lower than that actually paid to that person, or to any other person serving in that position, from such funds on the effective date of this Act. Acts 1963, 58th Leg., p. 923, ch. 354.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 326k—48. Eighty-first judicial district; supplemental salary of district attorney

The District Attorney of the 81st Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the State, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising the 81st Judicial District, or any one or more of such Commissioners Courts; providing, however, that the total salary of such District Attorney shall not be supplemented to exceed the sum of Eleven Thousand Dollars (\$11,000) per annum. The Commissioners Courts of the counties comprising the 81st Judicial District or any one or more of them, are hereby authorized to pay the supplemental salary herein authorized, in such amount within the limit fixed above. Acts 1963, 58th Leg., p. 419, ch. 143, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act authorizing the Commissioners Courts of the counties of the 81st Judicial

District to supplement the salary of the District Attorney of the 81st Judicial District; and declaring an emergency. Acts 1963, 58th Leg., p. 419, ch. 143.

Ark. 326k—49. First judicial district; supplemental salary of district attorney

Section 1. The District Attorney of the 1st Judicial District shall be compensated for his services in such amounts as may be fixed by the General Law relating to the salary paid to district attorneys by the state, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising the district of the District Attorney of the 1st Judicial District, so that the total salary of the District Attorney of the 1st Judicial District may be the sum of Eleven Thousand Dollars (\$11,000) per annum.

Sec. 2. The Commissioners Courts of the counties comprising the District of the District Attorney of the 1st Judicial District are hereby authorized to pay said supplement to the salary paid the District Attorney of the 1st Judicial District by the state, out of the Officer's Salary Funds of said counties, if adequate; if inadequate, the said Commissioners Courts shall transfer the necessary funds from the General Funds of said counties to the Officer's Salary Funds of said counties.

Sec. 3. The supplemental salary to be paid the District Attorney of the 1st Judicial District by the Commissioners Courts of the counties comprising the district of said District Attorney shall be paid on a pro rata basis according to the population of each county listed in the last preceding Federal Census. Acts 1963, 58th Leg., p. 926, ch. 356.

Emergency. Effective June 5, 1963.

Art. 326k—50. Criminal district attorney for Bexar County**Purpose of act**

Section 1. In view of the fact that presently there are a large number of statutes which regulate the office of Criminal District Attorney of Bexar County, Texas; some contained in numerous bracket laws and others in enactments involving the creation of various courts of Bexar County, and, in view of the fact that such statutes governing the operation of this office should be harmonized and one clear mode for operation of this office should be set out, the following is hereby enacted by the Legislature of this state as a Special Law after due publication in accordance with the Constitution of Texas.

Creation of office; election and term; qualifications

Sec. 2. In Bexar County, there is hereby created the office of Criminal District Attorney of Bexar County, which officer shall be a Constitutional Criminal District Attorney. The present Criminal District Attorney of Bexar County shall fill this office until the 1st day of January, 1967, or until his successor is elected, and qualified, unless a vacancy in this office shall occur by death, resignation or other lawful cause, whereupon the remaining term of this office shall be filled in accordance with the law. Thereafter such officer shall be elected every four years in accordance with the Constitution of this state. The said Criminal District Attorney of Bexar County shall possess the qualifications and take the oath and give the bond required by the Constitution and laws of this state of other District Attorneys.

Duties and powers

Sec. 3. It shall be the duty of said Criminal District Attorney of Bexar County, or his assistants as herein provided, to be in attendance upon each term and all sessions of the District and County and Justice

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Courts of Bexar County, as hereinafter provided, held for the transaction of criminal business, and to exclusively represent the State of Texas in all matters pending before said courts and to represent Bexar County in all matters pending before such courts and any other court where Bexar County has pending business of any kind, matter or interest. The Criminal District Attorney of Bexar County shall have and exercise, in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within such county, as are now by law conferred or which may hereafter be conferred upon District and County Attorneys under any law of this state. He shall collect such fees, commissions and perquisites as is now or may hereafter be provided by law for similar services rendered by District and County Attorneys of this state which funds shall be paid into the proper county funds as provided by law.

Compensation; commission

Sec. 4. The Criminal District Attorney of Bexar County shall receive as pay for his services the sum of Sixteen Thousand Five Hundred Dollars (\$16,500) annually. He shall receive a salary of Five Hundred Dollars (\$500) from the State of Texas as provided in the Constitution of the State of Texas for the salary of District Attorneys. The Commissioners Court in Bexar County shall supplement the salary of the Criminal District Attorney by the State of Texas in an amount to provide the salary set out herein. The Criminal District Attorney shall be commissioned in accordance with the Constitution and laws of this state.

**District attorney of 37th, 45th, 57th, 73rd, 131st, 144th, 150th
and 175th judicial district courts**

Sec. 5. The Criminal District Attorney of Bexar County shall be and function as the District Attorney of the 37th, 45th, 57th, 73rd, 131st, 150th, 144th, and 175th Judicial District Courts of Texas, and in addition thereto shall be and function as the District Attorney for any future Judicial District which may be created which has as its territorial jurisdiction that area that lies within the boundaries of Bexar County, Texas.

Assistants and employees; salaries; removal

Sec. 6. The Criminal District Attorney of Bexar County shall appoint assistants, stenographers, investigators and other employees of this office. The number of such positions in each class of employment, and the amount of salary that shall be paid to the person holding each position shall be designated by the Criminal District Attorney and be subject to the approval of the Commissioners Court of Bexar County. All of the salaries shall be paid from the Officers Salary Fund if adequate; if inadequate, the Commissioners Court may pay salaries out of the General Fund, the Jury fund, or any other funds available for the purpose. All employees of the office of Criminal District Attorney of Bexar County, whether assistants, stenographers, investigators, or any other class of employment, shall be removable at the will of the Criminal District Attorney.

**Assistant criminal district attorneys and investigators;
powers and duties**

Sec. 7. The Assistant Criminal District Attorneys of Bexar County, and the investigators, when so appointed, shall take the Constitutional Oath of office and the said Criminal District Attorney of Bexar County and his assistants shall have the exclusive right and it shall be their duty, to represent the State of Texas in all Criminal cases pending in any

and all of the Courts of Bexar County, Texas, except in the Corporation Courts of the various cities and towns in Bexar County. Said Assistant Criminal District Attorneys of Bexar County are hereby authorized to administer oaths, file information, examine witnesses before the grand jury and generally perform any duty devolving upon the Criminal District Attorney of Bexar County, which assistants shall act subject to and under the direction of the Criminal District Attorney of Bexar County.

Office space

Sec. 8. The Commissioners Court is authorized upon the request of the Criminal District Attorney to provide office space for such officers, his assistants, investigators and other staff.

Allowance for automobile expense

Sec. 9. The Commissioners Court is hereby authorized to allow such automobile expense to any officer, investigator, or employee in the performance of his official duties as they may deem necessary.

Qualifications of assistants and investigators

Sec. 10. The assistants to the Criminal District Attorney of Bexar County must be duly and legally licensed to practice law in the State of Texas; however, the investigators or other classes of employees need not be duly and legally licensed to practice law in the State of Texas.

Special counsel

Sec. 11. The Commissioners Court of Bexar County shall have the authority to employ special counsel, learned in the law, to represent the county in all suits brought by or against such county involving condemnations or eminent domain proceedings, and particularly with authority to render aid and work with the Commissioners Court, the County Engineer and other county employees in the preparation of documents necessary in the acquisition of rights-of-way for the county, or in cases where the county is required to obtain rights-of-way for state highways, or to assist in the acquisition of such rights-of-way; to represent the county in all condemnation proceedings for the acquisition of rights-of-way for highways, and other proper purposes where the right of eminent domain is given to counties. The Commissioners Court of Bexar County and the Criminal District Attorney of Bexar County, acting in conjunction and upon the approval of both, shall employ any such special counsel and such employment shall be made for such time and on such terms as they may jointly deem necessary, expedient and proper. Termination of employment of such special counsel shall be governed by the law regulating removal of Assistant Criminal District Attorneys, investigators and other classes of employees of the office of the Criminal District Attorney of Bexar County, as provided in this Act. Acts 1963, 58th Leg., p. 1312, ch. 501.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 1312, ch. 501, § 12 amended article 322; section 13 provided: "Sections 12, 13, 14, 15, 15a and 16 of Article 52—161, Vernon's Code of Criminal Procedure, all of which relate to the Criminal District Attorney of Bexar County, if not repealed by Chapter 262, page 730 #4, 54th Legislature, are hereby repealed,⁸⁷ and any other law in direct conflict with this Act is hereby repealed to the extent of such conflict."

Sections 14 and 15 of Acts 1963, 58th Leg., p. 1312, ch. 501 repealed two sentences in article 199 (37) and (150) relating to the criminal district attorney of Bexar County as district attorney of the 37th, 45th, 57th, 73rd, 131st and 150th judicial district courts; section 16 of the act was a savings provision; section 17 provided: "That this is a Special Law passed in accordance with the Constitution relating to the office of Criminal District Attorney of Bexar County only, and shall not be construed to repeal nor is it intended by the Legislature to repeal any laws relating to the District Attorneys or

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Criminal District Attorneys in any other area, and shall be construed as cumulative of all other existing statutes not specifically in conflict herewith."

Bexar County Criminal District Court, see Vernon's Ann.C.C.P. art. 52—161.

Criminal Judicial District No. 2 of Bexar County, see art. 199(37).

Election district attorneys in judicial districts, see art. 322.

Art. 326k—51. Criminal district attorney for Upshur County

Creation of office; qualifications; oath bond

Section 1. The constitutional office of Criminal District Attorney of Upshur County, Texas, is hereby created. The Criminal District Attorney of Upshur County shall possess all the qualifications and shall take the oath of office and give the bond required by the Constitution and laws of this State of other district attorneys.

Election and term of office

Sec. 2. There shall be elected by the qualified electors of Upshur County at the General Election in November, 1964, a Criminal District Attorney of Upshur County for the remainder of the constitutional term of office expiring on December 31, 1966. At the General Election in 1966 and every four (4) years thereafter, there shall be elected a Criminal District Attorney of Upshur County for the full constitutional term of four (4) years.

Powers, duties and privileges; fees, commissions and perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Upshur County or his assistant as herein provided to be in attendance upon each term and all sessions of the district courts of Upshur County and all of the sessions and terms of the inferior courts of Upshur County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts, and to represent Upshur County in all matters pending before such courts or any other court where Upshur County has pending business of any kind, matter or interest. In addition to the specified powers given and the duties imposed upon him by this Act, he is invested with such powers, duties and privileges within Upshur County as are by law now conferred, or which may hereafter be conferred upon the district and county attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by district and county attorneys of this State.

Commission; salary

Sec. 4. The Criminal District Attorney of Upshur County shall be commissioned by the Governor and shall receive as salary and compensation the sum of Seven Thousand, Five Hundred Dollars (\$7,500) per year, to be paid out of the Officers Salary Fund of Upshur County, if adequate; if inadequate, the Commissioners Court of Upshur County shall transfer the necessary funds from the General Fund of the County to the Officers Salary Fund.

Assistant; secretary; appointment and salary

Sec. 5. The Criminal District Attorney of Upshur County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court of Upshur County, may appoint one assistant, who shall receive a salary of not less than Four Thousand, Two Hundred Dollars (\$4,200) and not more than Four Thousand, Eight Hundred Dollars

(\$4,800) per year, and one secretary, who shall receive a salary of not less than Two Thousand, Six Hundred Dollars (\$2,600) and not more than Three Thousand Dollars (\$3,000) per year. The salary of the assistant and of the secretary shall be fixed by the Commissioners Court and shall be paid 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.

Oath of assistant; powers and duties

Sec. 6. The Assistant Criminal District Attorney of Upshur County, when so appointed, shall take the constitutional oath of office, and shall be authorized to administer oaths, file informations, examine witnesses before the grand jury, and generally to exercise any power and perform any duty devolving upon the Criminal District Attorney of Upshur County.

Expenses

Sec. 7. In addition to the salaries provided the Criminal District Attorney and his assistant, the Commissioners Court of Upshur County may allow the Criminal District Attorney and his assistant such necessary expenses as within its discretion seems reasonable, to be paid as provided by law for such other claims of expenses.

Appointment by governor; abolition of office of county attorney

Sec. 8. Upon the effective date of this Act, the Governor of Texas shall immediately appoint a Criminal District Attorney of Upshur County, who shall hold office until the next General Election and until his successor is duly elected and qualified. The office of County Attorney of Upshur County is abolished from and after the effective date of this Act. Acts 1963, 58th Leg., p. 1345, ch. 508.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 16—BANKS AND BANKING

TEXAS BANKING CODE OF 1943

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

Art. 342—101. Scope of Act—Short Title

Exemption of persons doing business under Texas Banking Code from provisions of the Texas Regulatory Loan Act, see art. 6165b, § 6.

Art. 342—102. Definitions

Savings and loan act, see art. 852a.

Art. 342—114. Building and Loan Section—Rules and Regulations— Loans and Investments—Advisory Powers

Sale of checks act, issuance of license by commissioner of state banking department, see art. 489d.

Art. 342—115. State Banking Board—Members—Powers

The State Banking Board shall consist of one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, the State Treasurer and the Banking Commissioner; shall have such powers and duties as are conferred upon it by this Code and by other laws of this state; and its findings and determinations shall be subject to review and may be set aside by a court of competent jurisdiction. The orders of the State Banking Board may be appealed to a court of competent jurisdiction and the trial in the court of competent jurisdiction shall be de novo the same as if said matter had been originally filed in such court. The State Banking Board shall have authority to promulgate rules and regulations prescribing the time and place of its meetings and hearings, and the procedure to govern the same. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 12.

Effective 90 days after May 24, 1963, date of adjournment.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

CHAPTER TWO—THE BANKING DEPARTMENT OF TEXAS

Art. 342—201. Banking Commissioner—Election—Qualification—Compensation

Sale of checks act, issuance of license by commissioner of state banking department, see art. 489d.

Art. 342—204. Examiners—Assistant Examiners—Appointment—Qualifications—Compensation

With the advice and consent of the Finance Commission, the Commissioner shall appoint bank examiners and assistant bank examiners in sufficient number to fully perform his duties and responsibilities under

the Code and the laws of this State. Such examiners shall have the qualifications required of the Departmental¹ Examiner, provided that experience as assistant examiner¹ or Liquidating Supervisor of the Banking Department of Texas shall be included as qualifying experience. Each examiner and each assistant examiner shall receive such compensation as shall be fixed by the Finance Commission. As amended Acts 1963, 58th Leg., p. 134, ch. 81, § 1.

¹ So in enrolled bill.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 342—207. Commissioner—General Powers—Duties—Liabilities of Commissioner and Others—Defense by Attorney General

Sale of checks act, issuance of license by commissioner of state banking department, see art. 489d.

Art. 342—304. Articles of Association

The articles of association of a state bank shall be signed and acknowledged by each person subscribing to stock and shall contain:

1. The name of the corporation.
2. The city or town and the county of its domicile.
3. Such of the powers listed in Article 1 of this Chapter as it shall choose to exercise.
4. The capital and the denomination and number of shares.
5. The name and address of each subscriber for stock and the number of shares subscribed for by him.
6. The number of directors.
7. The period of duration, which may be perpetual. As amended Acts 1963, 58th Leg., p. 134, ch. 81, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 342—305. Application for and Granting of Charters—Approval—Conditional Approval

Applicants shall file with the Commissioner an application for charter and the proposed articles of association; provided, however, that it shall not be necessary to present any application for a State Bank Charter on printed forms prepared by the State Banking Board, or the State Banking Department or the Commissioner of Banking, or under their or his directions, but any application which shall contain substantially the information required by this Act shall be deemed compliance therewith. Forms prepared by the Department or Commissioner may be used. Subsequently to the filing of any application for a charter the Commissioner may require additional information in connection therewith. Upon presentation to the Department or the Commissioner during regular business hours, such application shall be immediately filed and processed in the normal course of business, without delay or prejudice. In the event any citizen of this State shall request a set or sets of printed forms, prepared by the Department or the Commissioner, to be used in applying for a State Bank Charter from the State Banking Board or the State Banking Department or the Commissioner thereunder, or any employee thereof or therein, such forms shall be forthwith furnished and such applicant or citizen shall not be asked, nor shall he be required to disclose any information, at such time, concerning any proposed application for a State Bank Charter prior to its filing. The violation of any provision or requirement herein or the failure

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or refusal on the part of any official or employee of the State Banking Department to comply with any provision or requirement herein shall be cause for removal from office or dismissal from employment by the State Banking Board. Charter fees as prescribed by law shall be deposited with the Commissioner at the time the application is filed. The Commissioner shall thereupon make a thorough investigation of the application, the actual expense of which shall be determined by and paid to the Commissioner by the applicants prior to the hearing, and based upon the written report of such investigation, he shall make his findings together with the investigation report available to the State Banking Board. The written report of investigation and the findings of the Commissioner shall be made available to all interested parties at their request, provided that all sources of the information contained in the report of investigation shall be considered confidential and shall be privileged communications.

In considering any such application, the State Banking Board shall, after hearing, determine whether or not:

1. A public necessity exists for the proposed bank.
2. The proposed capital structure is adequate.
3. The volume of business in the community where such proposed bank is to be established is such as to indicate profitable operation of the proposed bank.
4. The proposed officers and directors have sufficient banking experience, ability and standing to render success of the proposed bank probable.
5. The applicants are acting in good faith.

Should the State Banking Board determine any of the above issues adversely to the applicants, it shall reject the application. Otherwise such Board shall approve the application and the Commissioner shall, when the capital has been paid in cash, deliver to the incorporators a certified copy of the articles of association, and the bank shall come into corporate existence. Provided, however, that the State Banking Board may make its approval of any application conditional, and in such event shall set out such condition in the resolution granting the charter, and the Commissioner shall not deliver the certified copy of the articles of association until such condition has been met, after which the Commissioner shall in writing inform the State Banking Board as to compliance with such condition and delivery of the articles of association. As amended Acts 1963, 58th Leg., p. 134, ch. 81, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 342—312. Amendment of Articles of Association—Rights of Stockholders upon Increase in Capital

Savings and loan associations, amendment of charter and bylaws, see art. 852a, § 2.11.

Art. 342—404. Directors—Number—Change of Number—Advisory Directors

Savings and loan associations, directors, see art. 852a, § 3.01.

CHAPTER FIVE—LOANS AND INVESTMENTS

Art.
342—509a. Stockholders, Officers and Em-
ployees—Authority to Take
Acknowledgments [New].

Condominium projects, loans on individual apartments, see art. 1301a, § 10.

Art. 342—502. Other Real Estate—Depreciation—Exceptions

Condominium projects, loans on individu-
al apartments, see art. 1301a, § 10.

Art. 342—504. Real Estate Loans—Limitations—Exceptions

Except as provided in Sections 4 through 8 of this Article, no state bank shall make a loan upon security of real estate or invest its funds in obligations secured by real estate unless:

1. The security is a first lien upon such real estate or the loan or investment made by the bank is wholly guaranteed by the Administrator of Veterans Affairs under Title III of the Serviceman's Readjustment Act of 1944,¹ as amended from time to time.

2. The total net balance owing upon the indebtedness secured by such lien:

(a) does not exceed sixty per cent (60%) of the appraised value of such real estate;

(b) does not exceed seventy per cent (70%) of the appraised value of such real estate and such loan or obligation provides for uniform monthly, quarterly, semiannual or annual reductions of principal in such amounts as to retire forty per cent (40%) thereof within five (5) years of the date of the bank's loan or investment; or

(c) does not exceed eighty per cent (80%) of the appraised value of such real estate when such real estate consists of 'residential real estate' and such loan provides for repayment in equal monthly installments in such amounts as to retire the same in its entirety, both as to principal and interest, in not more than two hundred and forty (240) months from the date thereof and further provides for equal monthly deposits during the term thereof in amounts sufficient to pay as they accrue the premiums on fire and tornado insurance and all taxes assessed against the security. The aggregate of loans and investments of the class provided for in this Subsection (c) of Section 2 made by any state bank shall never, without the written consent of the Commissioner, exceed the certified surplus and capital of such bank.

The term "residential real estate" as used in this Subsection (c) of Section 2 shall mean land on which is situated a dwelling of not more than four (4) family units the primary use of which is occupancy as a home.

The term "net balance" as used in this Section 2 shall mean the balance obtained after deducting from any loan or obligation the portion thereof guaranteed by the Administrator of Veterans Affairs under Title III of the Serviceman's Readjustment Act of 1944, as amended from time to time.

3. Such loan or obligation is supported by:

(a) either an attorney's opinion or a mortgagee's title insurance policy;

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(b) evidence of payment of all taxes other than taxes for the current year;

(c) a written appraisal of such real estate signed by an appraiser; and

(d) if the improvements situated upon such real estate constitute an appreciable portion of the security, adequate coverage insuring the interest of the bank against loss by fire and tornado.

4. The limitations, restrictions and requirements of Sections 1, 2 and 3 of this Article shall not apply to a loan or obligation insured by the Federal Housing Administration, or to any loan or obligation which the United States of America has unconditionally guaranteed as to payment of both principal and interest through a federal agency or instrumentality, or to security taken to prevent loss on a loan or investment previously made in good faith.

5. Construction loans:

(a) The following loans made to finance the construction of buildings shall not be considered as loans secured by real estate within the meaning of this Article but shall be classed as ordinary commercial loans, provided that such loans shall be secured by a first lien on the real estate upon which the building or buildings are being constructed:

(1) loans made to finance the construction of industrial or commercial buildings having maturities not in excess of thirty-six (36) months where there are valid and binding agreements entered into by financially responsible lenders to advance the full amount of the bank's loan upon completion of the buildings, and

(2) loans made to finance the construction of residential or farm buildings having maturities not in excess of eighteen (18) months.

(b) Such loans or obligations shall be supported by:

(1) either an attorney's opinion, a mortgagee's title insurance policy or a mortgagee's title insurance policy binder;

(2) evidence of payment of all taxes other than taxes for the current year;

(3) either a written appraisal of such real estate, signed by an appraiser, or a valid and binding agreement entered into by a financially responsible lender or lenders to advance the full amount of the bank's loan upon completion of the buildings; and

(4) insurance coverage upon the building or buildings under construction in an amount adequate to insure the interest of the bank against loss by fire, tornado and other casualties.

(c) No state bank shall, without the written consent of the Commissioner, invest its funds in, or be liable on, any such loans in an aggregate amount in excess of its capital and certified surplus.

6. Loans made to established industrial or commercial businesses in which the Housing and Home Finance Administrator or the Small Business Administration cooperates or purchases a participation under the provisions of Section 102 or 102a of the Housing Act of 1948, as amended,² or of the Small Business Act of 1953,³ shall not be subject to the requirements, restrictions or limitations of this Article upon loans secured by real estate.

7. Loans made to businesses where the bank looks for repayment out of the operations of the borrower's business, relying primarily on the borrower's general credit standing and forecast of operations, with or without other security, but wishes to take a mortgage on the borrower's real estate as a precaution against contingencies, shall not be considered as real estate loans within the meaning of this Article but shall be classed as ordinary commercial loans.

8. Loans may be made to finance the construction of buildings during a construction period in each case of not to exceed thirty-six (36) months, upon the security of:

(a) a purchase contract entered into pursuant to the provisions of the Public Buildings Purchase Contract Act of 1954⁴ or the Post Office Department Property Act of 1954,⁵ or an assignment thereof irrevocably binding the Administrator of General Services or the Postmaster General to commence payments at a specified date not later than one month from the date of completion and acceptance of the building and to continue such payments at least at annual intervals until the loan has been paid in full, and

(b) a bid and performance bond with one or more financially responsible sureties thereon in favor of the General Services Administration or the Post Office Department, jointly with the lender, without complying with the requirements, restrictions or limitations of this Article concerning loans secured by real estate, even though the lender may hold additional security in the form of a mortgage, deed of trust, title to the premises involved, or other such lien on such premises. As amended Acts 1959, 56th Leg., p. 894, ch. 412, § 9; Acts 1962, 57th Leg., 3rd C.S., p. 108, ch. 37, § 1; Acts 1963, 58th Leg., p. 134, ch. 81, § 4.

¹ See 38 U.S.C.A. § 1801 et seq.

² 12 U.S.C.A. §§ 1701g, 1701g-1.

³ 15 U.S.C.A. § 631 et seq.

⁴ 40 U.S.C.A. §§ 356, 357.

⁵ 39 U.S.C.A. § 901 et seq.

Effective 90 days after May 24, 1963, date of adjournment.

Condominium projects, loans on individual apartments, see art. 1301a, § 10.

Art. 342—505. Building and Loan Shares—Lawful Investment

Savings and loan associations, lending transactions, see art. 852a, § 5.05.

Art. 342—508. Loan Fees Prohibited—Exception

Texas regulatory loan act, see art. 6165b.

Art. 342—509a. Stockholders, Officers and Employees—Authority to Take Acknowledgments

No Notary Public or other Public Officer qualified to take acknowledgments or proofs of written instruments shall be disqualified from taking the acknowledgment or proof of an instrument in writing in which a state bank is interested by reason of his ownership of stock in or employment by the bank interested in such instrument, and any such acknowledgment heretofore taken is hereby validated. Added Acts 1963, 58th Leg., p. 134, ch. 81, § 5.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER SIX—SURPLUS, DIVIDENDS, LIABILITIES, UNINVESTED TRUST FUNDS, PREFERENCES, RESERVES, DEBENTURES AND WITHDRAWALS

Art. 342—602. Liability Limit—Exceptions

Savings and loan associations, withdrawals from savings accounts, see art. 852a, § 6.15.

**CHAPTER SEVEN—DEFINITIONS, COLLECTIONS,
DEPOSITORY CONTRACTS****Art. 342—709. Adverse claims to deposits; disclosure as to amount deposited**

No bank shall be required to recognize the claim of any third party to any deposit, or withhold payment of any deposit to the depositor or to his order, unless and until the bank is served with citation or other appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by such third party for the purpose of recovering or establishing an interest in such deposit; neither shall any bank be required to disclose the amount deposited by any depositor to third parties except where (i) the depositor or owner of such deposit is a proper or necessary party to a proceeding in a court of competent jurisdiction in which event the records pertaining to the deposit of such depositor or owner shall be subject to disclosure or (ii) the bank itself is a proper or necessary party to a proceeding in a court of competent jurisdiction or (iii) in response to a subpoena issued by a legislative investigating committee of the Legislature of Texas, or (iv) in response to a request for examination of its records by the Attorney General of Texas pursuant to Article 1302—5.01 et seq. of the Texas Miscellaneous Corporation Laws Act. As amended Acts 1963, 58th Leg., p. 1135, ch. 440, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 342—710. Joint Deposits—Minors, Married Women—Trustees

Savings and loan associations, joint accounts by husband and wife, see art. 852a, § 6.09.

CHAPTER EIGHT—LIQUIDATION**Art. 342—802. Voluntary Liquidation of Solvent State Bank—Cancellation of Charter—Resumption of Business Prohibited**

Savings and loan associations, voluntary liquidation, see art. 852a, § 10.04.

CHAPTER NINE—GENERAL PROVISIONS**Art. 342—903. Branch Banking Prohibited**

No state, national or private bank shall engage in business in more than one place, maintain any branch office, or cash checks or receive deposits except in its own banking house. For purpose of this Article 'banking house' means the building in whose offices the business of the bank is conducted and which is functionally one place of business, including office facilities whose nearest wall is located within five hundred (500) feet of the nearest wall of the central building and is physically connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected office facility or by pneumatic tube or other similar carrier. The entire banking house shall for all purposes under the law be considered one integral

banking house. As amended Acts 1959, 56th Leg., p. 213, ch. 123, § 1; Acts 1963, 58th Leg., p. 134, ch. 81, § 6.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 342—908. Application of Code to National Banks—Discrimination Between State and National Banks

State and national banks are hereby declared to be within the same class under the Constitution and laws of this State. It is not the intention of the Legislature to discriminate between state banks and national banks. To the extent that the State of Texas has power to legislate with reference to national banks, all laws of this State shall apply alike to state banks and national banks domiciled in this State; and state banks shall be subject to only such taxes heretofore or hereafter imposed by the State, or any political subdivision thereof, as could lawfully be imposed upon such state banks were they operating as national banks. As amended Acts 1963, 58th Leg., p. 134, ch. 81, § 7.

Effective 90 days after May 24, 1963, date of adjournment.

MISCELLANEOUS LAWS

SALE OF CHECKS ACT

Art.

489d. Sale of Checks Act [New].

SALE OF CHECKS ACT

Art. 489d. Sale of Checks Act

Citation

Section 1. This Act may be cited as "The Sale of Checks Act."

Definitions

Sec. 2. For the purposes of this Act:

(a) "Person" means any individual, partnership, association, joint stock association, trust, or corporation, but does not include the United States Government or the government of this state.

(b) "Licensee" means a person duly licensed by the Commissioner pursuant to this Act.

(c) "Check" means any check, draft, money order, personal money order, or other instrument for the transmission or payment of money.

(d) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission, or handling of money, whether such instrument be signed by the seller or by the purchaser or remitter or some other person.

(e) "Sell" means to sell, to issue, or to deliver a check.

(f) "Deliver" means to deliver a check to the first person who in payment for same makes or purports to make a remittance of or against the face amount thereof, whether or not the deliveror also charges a fee in addition to the face amount, and whether or not the deliveror signs the check.

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

(g) "Commissioner" means the Commissioner of the State Banking Department.

License Required

Sec. 3. No person, except those specified in Section 4 shall engage in the business of selling checks, as a service or for a fee or other consideration, without having first obtained a license hereunder. Any person engaged in said business on the effective date of this Act may continue to engage therein without a license until the Commissioner shall have acted upon his application for a license, provided that such application be filed within thirty (30) days after the effective date of this Act.

Exemption from Licensing

Sec. 4. No license to sell checks as aforesaid shall be required hereunder of any of the following:

(a) Banks, trust companies, building and loan associations, and savings and loan associations, whether organized under the laws of this state or of the United States; provided, however, that nothing herein shall be deemed to enlarge the powers of the foregoing persons;

(b) Incorporated telegraph companies insofar as they receive money at any of their respective offices or agencies for immediate transmission by telegraph; or

(c) Agents of a licensee, as provided in Section 11.

Qualifications

Sec. 5. To qualify for a license hereunder an applicant shall meet the following requirements:

(a) The applicant shall have a net worth of at least Ten Thousand Dollars (\$10,000), computed according to generally accepted accounting principles.

(b) The financial responsibility, financial condition, and business experience, and character and general fitness of the applicant shall be such as reasonably to warrant the belief that applicant's business will be conducted honestly, carefully and efficiently. To the extent deemed advisable by the Commissioner, the Commissioner may investigate and consider the qualifications of officers and directors of an applicant in determining whether this qualification has been met.

Applications

Sec. 6. Each application for such a license shall be made in writing and under oath to the Commissioner in such form as he may prescribe. The application shall state the full name and business address of:

(a) The proprietor, if the applicant is an individual;

(b) Every member, if the applicant is a partnership or association, except that if the applicant is a joint stock association having fifty (50) or more members, the name and business address need be given only of the association and each officer and director thereof;

(c) Every trustee and officer if the applicant is a trust; and

(d) The corporation and each officer and director thereof, if the applicant is a corporation.

Accompanying Fee, Statements and Bond

Sec. 7. Each application for a license shall be accompanied by:

(a) An investigation fee of Fifty Dollars (\$50) which shall not be subject to refund but which, if the license be granted, shall constitute the license fee for the first license year or part thereof;

(b) Financial statements reasonably satisfactory to the Commissioner;

(c) A surety bond issued by a bonding company or insurance company authorized to do business in this state, in the principal sum of Twenty-five Thousand Dollars (\$25,000), and an additional principal sum of Five Thousand Dollars (\$5,000) for each location, in excess of one, at which the applicant proposes to sell checks in this state, but in no event shall the bond be required to be in excess of Two Hundred Fifty Thousand Dollars (\$250,000). If the bond accompanying the application be in a principal sum of less than Two Hundred Fifty Thousand Dollars (\$250,000), the application shall also be accompanied by a list of the locations at which the business is to be conducted. The bond shall be in form satisfactory to the Commissioner and shall run to the state for the benefit of any claimants against the applicant or his agents to secure the faithful performance of the obligations of the applicant and his agents with respect to the receipt, handling, transmission and payment of money in connection with the sale of checks. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. Such claimants against the applicant or his agents may themselves bring suit directly on the bond, or the Attorney General may bring suit thereon in behalf of such claimants, either in one action or successive actions; or

(d) In lieu of such corporate surety bond or bonds, or of any portion of the principal thereof as required by this Section, the applicant may deposit with the Commissioner or with such banks or trust companies or national banks in this state as such applicant may designate and the Commissioner may approve interest-bearing stocks and bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district or instrumentality of this state, or guaranteed by this state, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required corporate surety bond or portion thereof. The securities shall be deposited as aforesaid and held to secure the same obligations as would the surety bond, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the Commissioner, to substitute other securities for those deposited, and shall be required so to do on written order of the Commissioner made for good cause shown.

(e) Notwithstanding the provisions of (c) above, when the Commissioner determines with respect to any applicant or licensee that a bond or equivalent deposit of less than the sums prescribed therein will be sufficient to fully secure the faithful performance of the obligations of the applicant or licensee and his agents with respect to the receipt, handling, transmission and payment of money in connection with the sale of checks, then he is authorized to reduce the bond or equivalent deposit required of such applicant or licensee to such sums as will be sufficient. In making such determination, the Commissioner may consider the maximum sums of checks sold or to be sold by the applicant or licensee and which are or can reasonably be expected to be outstanding at any one time and all other

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relevant facts. Nothing herein shall be deemed to restrict or limit the authority of the Commissioner to require the filing of a new or supplemental bond or the deposit of new or additional securities as provided for in subsection (b) of Section 9.

Investigation; Granting of License

Sec. 8. Upon the filing of an application in due form, accompanied by the fee and documents mentioned in Section 7, the Commissioner shall investigate to ascertain whether the qualifications prescribed by Section 5 have been met. If he finds that such qualifications have been met, and if he approves the said documents and finds that said bond is in the prescribed amount, he shall issue to the applicant a license to engage in the business of selling checks in this state.

Maintenance of Bond or Securities

Sec. 9. After a license has been granted, the licensee shall maintain said bond or securities in the amount prescribed by Section 7, as follows:

(a) Each licensee who does not have on file or deposit a bond or securities, as aforesaid, in the undiminished principal sum of Two Hundred Fifty Thousand Dollars (\$250,000), shall file quarterly reports with the Commissioner setting forth the locations at which he sells checks in this state as of January 1, April 1, July 1, and October 1 in each year, the report for each such date being due on or before the 15th day thereafter. Within ten (10) days following the filing of such a report, the principal sum of the bond or securities shall be increased to reflect any increase in the number of locations, and may be decreased to reflect any decrease in the number of locations.

(b) If the Commissioner shall at any time reasonably determine that the bond or securities aforesaid are insecure, deficient in amount, or exhausted in whole or part, he may by written order require the filing of a new or supplemental bond or the deposit of new or additional securities in order to secure compliance with this Act, such order to be complied with within thirty (30) days following service thereof upon the licensee.

Annual License Fee

Sec. 10. Each licensee shall pay to the Commissioner annually on or before April 15 of each year a license fee of Fifty Dollars (\$50).

Agents and Sub-agents

Sec. 11. A licensee may conduct his business at one or more locations within this state, as follows:

(a) The business may be conducted through or by means of such agents and sub-agents as the licensee may from time to time designate or appoint.

(b) No license under this Act shall be required of any agent or sub-agent of a licensee except as provided in the following subsection.

(c) An agent or sub-agent, other than a person referred to in subsections (a) and (b) of Section 4, who sells the licensee's checks over-the-counter to the public shall not be exempt from licensing under this Act if such agent or sub-agent in the regular conduct of such business receives or at any time has access to (1) the licensee's checks which, having been paid, are returned through banking channels or otherwise for verification or for reconciliation or accounting with respect thereto or (2) bank statements relating to checks so returned. This subsection shall not affect the exemption of any agent of a licensee who does not sell checks over-the-counter to the public.

Liability of Licensees

Sec. 12. Each licensee shall be liable for the payment of all checks which he sells, in whatever form and whether directly or through an agent, as the maker or drawer thereof according to the negotiable instrument laws of this state; and a licensee who sells a check, whether directly or through an agent, upon which he is not designated as maker or drawer shall nevertheless have the same liabilities with respect thereto as if he had signed same as the drawer thereof.

Disclosure of Responsibility

Sec. 13. Every check sold by a licensee, directly or through an agent, shall bear the name of the licensee clearly imprinted thereon.

Revocation of License; Investigations

Sec. 14. The Commissioner may revoke a license on any ground on which he may refuse to grant a license or for violation of any provision of this Act. In furtherance of the foregoing, the Commissioner, if he has reasonable cause to believe that the grounds for revocation exist, may investigate the business, books and records of the licensee.

Hearings

Sec. 15. No license shall be denied or revoked except after a hearing thereon. The Commissioner shall give the applicant or licensee at least twenty (20) days written notice of the time and place of such hearing by registered or certified mail addressed to the principal place of business of such applicant or licensee. Any order of the Commissioner denying or revoking such license shall state the grounds upon which it is based and shall not be effective until twenty (20) days after written notice thereof has been sent by registered or certified mail to the applicant or licensee at such principal place of business.

Penalties

Sec. 16. Any person who directly or through another violates or attempts to violate any provision of this Act shall be guilty of a misdemeanor, and shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or imprisoned in the county jail for not more than ninety (90) days, or both. Each transaction in violation of this Act and each day that a violation continues shall be a separate offense.

Severability

Sec. 17. Should any provision, sentence, clause, Section or part of this Act for any reason be held unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, Sections or parts of this Act. It is hereby declared to be the intention of this Legislature that this Act would have been adopted had such unconstitutional, illegal or invalid sentence, clause, Section or part thereof not been included herein. Acts 1963, 58th Leg., p. 523, ch. 196.

Effective 90 days after May 24, 1963, date of adjournment.

Bills and notes, see art. 567 et seq.

Commissioner of state banking department, general powers and duties, see art. 342-207.

Obtaining money by giving or drawing check without sufficient funds, see Vernon's Ann.P.C. art. 567b.

State banks, powers, see art. 342-301.

Texas savings and loan act, see art. 852a.

PREPAID FUNERAL SERVICES OR MERCHANDISE

Art. 548b. Sale of prepaid funeral services or funeral merchandise

Permit from State Banking Department authorizing contracts

Section 1. Any individual, firm, partnership, corporation, or association (hereinafter called "organization" or "seller"), desiring to sell prearranged or prepaid funeral services or funeral merchandise (including caskets, grave vaults, and all other articles of merchandise incidental to a funeral service, but excluding grave lots, grave spaces, grave markers, monuments, tombstones, crypts, niches, and mausoleums) in this state, under any contract, expressed or implied, providing for prepaid burial or funeral benefits or merchandise (hereinafter called "prepaid funeral benefits"), or who shall solicit the designation by an individual of the items of funeral merchandise or services which he desires to be provided out of any fund, investment, debenture, security, or contract to be created or purchased by such individual at the suggestion or solicitation of the organization shall obtain a permit from the State Banking Department of this state authorizing the transaction of this type of business, before conducting such business. Seller shall not be entitled to enforce a contract made in violation of this Act, but the purchaser or his heirs, or legal representative, shall be entitled to recover all amounts paid to the seller under any contract made in violation thereof, and all amounts paid whether or not paid seller, to any fund or for any investment, debenture, security, or contract where the seller has violated the provisions of this Act. Delivery of funeral merchandise prior to death shall not constitute performance or fulfillment, either wholly or in part, of any prepaid funeral benefits contract entered into after the effective date of this amendatory Act.

Provided, however, that grave lots, grave spaces, grave markers, monuments, tombstones, crypts, niches, and mausoleums shall not be excluded from the provisions of this Section when these items and articles are sold in contemplation of trade or barter for services and articles designated as included by the provisions of this Section. As amended Acts 1963, 58th Leg., p. 1304, ch. 496, § 1.

Emergency. Effective July 15, 1963.

**Solicitation of designation of funeral services and merchandise;
creation of fund by contract of insurance**

Sec. 1a. No organization covered by this Act shall solicit by any means whatsoever the designation by an individual of funeral services or merchandise which he desires to be provided to be paid out of any fund, investment, debenture, security, or contract, to be created or purchased by or for such an individual at the suggestion or solicitation of the organization, unless such a fund is to be created by a contract of insurance with an insurance company licensed in Texas, or unless such fund, investment, debenture, security, or contract shall have been approved by the Banking Department as safeguarding the rights and interests of the individual and his heirs and assigns to substantially the same or greater degree as is provided with respect to funds regulated by Section 5 hereof. Acts 1963, 58th Leg., p. 1304, ch. 496, § 2.

Emergency. Effective July 15, 1963.

Application for and issuance of permit; filing fees; duration of permit

Sec. 3. Each organization desiring to sell prepaid funeral benefits shall file an application for a permit with the State Banking Department

and shall pay a filing fee of Twenty-five Dollars (\$25.00). The Banking Commissioner shall issue a permit upon receipt of the application and payment of the filing fee. Permits shall expire on March 1st each year, but may be renewed for a period of one (1) year upon payment of a fee of Ten Dollars (\$10.00) on or before March 1st. As amended Acts 1963, 58th Leg., p. 1304, ch. 496, § 3.

Emergency. Effective July 15, 1963.

Handling of funds paid or collected under contract

Sec. 5. All sums heretofore or hereafter paid or collected on contracts for prepaid funeral benefits entered into prior to the effective date of this Act shall be handled in accordance with the manner in which they have heretofore been handled. All sums paid or collected on such contracts entered into after the effective date of this Act (with the exception of those paid where a contract of insurance is created or those approved by the Banking Department, as both are provided for in Section 1a of this Act) shall be handled in the following manner:

(1) The funeral home (or other entity collecting said funds) may retain as its own money, for the purpose of covering its selling expenses, servicing costs, and general overhead, an amount not to exceed one-half of all funds so collected or paid until it has received for its use and benefit an amount not to exceed ten percent of the total amount agreed to be paid by the purchaser of such prepaid funeral benefits as such total amount is reflected in the contract. No charges or assessments, except premiums collected on an insurance policy guaranteeing the payments on a prepaid funeral contract or the unpaid balance thereof, shall be collected from the purchaser other than those included in the total amount of said contract.

(2) All amounts paid or collected, with the exception of those permitted to be retained as set forth above, shall, within thirty days after such collection, be (a) deposited in a savings and loan association in this state, or (b) deposited in a state or national bank in this state, or (c) placed with the trust department for the use and benefit of the purchasers in a state or national bank in this state to be invested by such trust department in accordance with the terms and provisions of the Texas Trust Act. Such deposits or trust accounts shall be carried in the name of the funeral home or other entity to whom the purchaser makes payment, but accounting records shall be maintained showing the amount deposited or invested with respect to any particular purchaser's contract.

(3) The date of death of the purchaser of such contract (or other individual who may be designated in the contract as the person for whose funeral such funds may be used) shall be the maturity date of the contract, and as soon as conveniently practicable after such maturity date and upon presentation of a certified copy of the death certificate of such person together with proper affidavits as may be required by the State Banking Department, such funds shall be released in fulfillment of the contract, and the funeral home (or other entity to the contract which has collected the funds) shall, if the amount so withdrawn does not equal one hundred percent of the total amount paid under such contract, make up the difference so that the amount available for funeral benefits shall equal one hundred percent of the total amount paid in under such contract. Any amounts accumulated at maturity on any particular contract in excess of one hundred percent of the amount paid in on such contract shall be available to the funeral home (or other entity collecting said funds) in making up the difference on any particular contract which at maturity did

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not have funds available equal to one hundred percent of the amount paid under such contract. It is provided further, that at any time the total funds deposited or placed in trust plus accrued interest thereon on all such contracts of any particular funeral home or entity exceeds one hundred percent of the amount paid in on all such contracts, thereafter upon maturity of any contract the amount available for funeral benefits shall be increased by the proportionate amount of such excess as said purchaser's contract bears to the total amount paid in on all such contracts of the particular funeral home or entity. In no event shall more funds be withdrawn from the trust account than originally placed into the fund under any one contract other than through the payment to the purchaser or his estate of accrued interest earned in excess of the face amount of the contract; and in no event shall any accrued interest be paid to the seller.

(4) In the event a purchaser under a contract should desire to cancel the contract prior to maturity, such cancellation may be accomplished by the purchaser giving fifteen days notice in writing to the State Banking Department and to the seller of the contract, and thereafter, upon written authorization from the State Banking Department, such purchaser may withdraw the funds in such depository being held for his use and benefit; provided, however, such purchaser shall be entitled to withdraw and receive only the actual amounts paid in by him less the amounts permitted to be retained as provided in subsection (1) hereof. As amended Acts 1963, 58th Leg., p. 1304, ch. 496, § 4.

Emergency. Effective July 15, 1963. repealed by Acts 1963, 58th Leg., p. 1304, Section 1a of this article, as enacted by ch. 496, § 2 and the present section 1a was Acts 1955, 54th Leg., p. 1292, ch. 512, was added in lieu thereof.

Saved From Repeal

Acts 1963, 58th Leg., p. 1283, ch. 494, which amended article 4582b, relating to funeral directing and embalming, provided in section 5 of the act that nothing in the act should be construed as repealing, amending, modifying, altering, or in any way prohibiting the effect and application of the provisions of Acts 1963, 58th Leg., p. —, ch. 496 (Senate Bill No. 129) which amended this article, and further provided that if there were conflicts between the provisions of Acts 1963, 58th Leg., p. 1283, ch. 494 and Acts 1963, 58th Leg., p. 1304, ch. 496, the provisions of chapter 496 should prevail.

Cemeteries, receipt and disbursement of Funeral directing and embalming, see filing fees, see art. 912a—3. art. 4582b.

TITLE 18—BILLS AND NOTES

Art. 567. [581] [306] [264] Drawer of bill liable

Sale of checks act, see art. 489d.

Tex.St.Supp. 1964—5

TITLE 19—BLUE SKY LAW—SECURITIES

Art. 581—5. Exempt Transactions

E. Any offer and any transaction pursuant to any offer by the issuer of its securities to its existing security holders (including persons who at the time of the transaction are holders of convertible securities or non-transferable warrants) if no commission or other remuneration (other than a stand-by commission) is paid or given directly or indirectly for soliciting any security holder in this State. As amended Acts 1963, 58th Leg., p. 473, ch. 170, § 1.

G. The issue or sale of securities (a) by one corporation to another corporation or the security holders thereof pursuant to a vote by one or more classes of such security holders, as required by the certificate of incorporation or the applicable corporation statute, in connection with a merger, consolidation or sale of corporate assets, or (b) by one corporation to its own stockholders in connection with the change of par value stock to no par value stock or vice versa, or the exchange of outstanding shares for the same or a greater or smaller number of shares; provided that in any such case such security holders do not pay or give or promise and are not obligated to pay or give any consideration for the securities so issued or sold other than the securities of the corporation then held by them. As amended Acts 1963, 58th Leg., p. 473, ch. 170, § 2.

H. The sale of any security to any bank, trust company, building and loan association, insurance company, surety or guaranty company, savings institution, investment company as defined in the Investment Company Act of 1940,¹ small business investment company as defined in the Small Business Investment Act of 1958, as amended,² or to any registered dealer actually engaged in buying and selling securities; or the issue or sale of any investment contract in connection with an employees' stock bonus, annuity, pension, profit-sharing or similar employee benefit plan provided the securities purchased under the plan either would be exempt if sold by a registered dealer under Section 6³ hereof or shall be qualified under Section 7⁴ hereof or purchased in a transaction exempt under Section 5 hereof. As amended Acts 1963, 58th Leg., p. 473, ch. 170, § 3.

¹ 15 U.S.C.A. § 80a—1 et seq.

² 15 U.S.C.A. § 631 et seq.

³ Article 585—6.

⁴ Article 585—7.

I. Provided such sale is made without any public solicitation or advertisements, (a) the sale of any security by the issuer thereof so long as the total number of security holders of the issuer thereof does not exceed thirty-five (35) persons after taking such sale into account; (b) the sale of shares of stock pursuant to the grant of an employees' restricted stock option as defined in the Internal Revenue Laws of the United States; or (c) the sale by an issuer of its securities during the period of twelve (12) months ending with the date of the sale in question to not more than fifteen (15) persons (excluding, in determining such fifteen (15) persons, purchasers of securities in transactions exempt under other provisions of this Section 5, purchasers of securities exempt under Section 6¹ hereof and purchasers of securities which are part of an offering registered under Section 7 hereof),² provided such persons purchased such securities for their own account and not for distribution.

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The issuer shall file a notice not less than five (5) days prior to the date of consummation of any sale claimed to be exempt under the provisions of clause (c), of this Subsection I, setting forth the name and address of the issuer, the total amount of the securities to be sold under this clause, the price at which the securities are to be sold, the date on which the securities are to be sold, the names and addresses of the proposed purchasers, and such other information as the Commissioner may reasonably require, including a certificate of a principal officer of the issuer that reasonable information concerning the plan of business and the financial condition of the issuer has been furnished to the proposed purchasers. The Commissioner may by order revoke or suspend the exemption under this clause (c) with respect to any security if he has reasonable cause to believe that the plan of business of the issuer of such security, the security, or the sale thereof would tend to work a fraud or deceit upon the purchaser or purchasers thereof, such order to be subject to review in the manner provided by Section 24 of this Act.³ The revocation or suspension of this exemption shall be inapplicable to the issuer until such issuer shall have received actual notice from the Commissioner of such revocation or suspension. As amended Acts 1963, 58th Leg., p. 473, ch. 170, § 4.

¹ Article 581—6.

² Article 581—7.

³ Article 581—24.

O. The sale by a registered dealer of outstanding securities provided that:

(1) Such securities form no part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer thereof; and

(2) Securities of the same class, of the same issuer, are outstanding in the hands of the public; and

(3) Such securities are offered for sale, in good faith, at prices reasonably related to the current market price of such securities at the time of such sale; and

(4) No part of the proceeds of such sale are paid directly or indirectly to the issuer of such securities; and

(5) Such sale is not directly or indirectly for the purposes of providing or furthering any scheme to violate or evade any provision of this Act; and

(6) The right to sell or resell such securities has not been enjoined by any court of competent jurisdiction in this state by proceedings instituted by an officer or agency of this state charged with enforcement of this Act; and

(7) The right to sell such securities has not been revoked or suspended by the Commissioner under any of the provisions of this Act, or, if so, revocation or suspension is not in force and effect; and

(8) At the time of such sale, the issuer of such securities shall be a going concern actually engaged in business and shall then be neither in an organization stage nor in receivership or bankruptcy; and

(9) Such securities or other securities of the issuer of the same class have been registered by qualification, notification or coordination under Section 7 of this Act;¹ or at the time of such sale at least the following information about the issuer shall appear in a recognized securities manual or in a statement, in form and extent acceptable to the Commissioner, filed with the Commissioner by the issuer or by a registered dealer:

- (a) A statement of the issuer's principal business;
- (b) A balance sheet as of a date within eighteen (18) months of the date of such sale; and
- (c) Profit and loss statements and a record of the dividends paid, if any, for a period of not less than three (3) years prior to the date of such balance sheet or for the period of existence of the issuer, if such period of existence is less than three (3) years.

The term "recognized securities manual" shall include the manuals published by Moody's Investment Service, Standard & Poor's Corporation, Best's Life Insurance Reports, and such other nationally distributed manuals of securities as may be approved for use hereunder by the Commissioner.

"The Commissioner may issue a stop order or by order prohibit, revoke or suspend the exemption under this Subsection O with respect to any security if he has reasonable cause to believe that the plan of business of the issuer of such security, the security, or the sale thereof would tend to work a fraud or deceit upon any purchaser or purchasers thereof, such order to be subject to review in the manner provided by Section 24 of this Act.² Notice of any court injunction enjoining the sale, or resale, of any such security, or of an order revoking or suspending the exemption under this subdivision with respect to any security, shall be delivered or shall be mailed by certified or registered mail with return receipt requested, to any dealers believed to be selling, or offering for sale, securities of the type referred to in the notice; and the prohibitions of (6) and (7) above of this Subsection O shall be inapplicable to any dealer until he has received actual notice from the Commissioner of such revocation or suspension.

Except for the manuals published by Moody's Investment Service, Standard & Poor's Corporation, and Best's Life Insurance Reports, the Commissioner may for cause shown revoke or suspend the recognition hereunder of any manuals previously approved by the Commissioner under this Subsection but no such action may be taken by the Commissioner unless upon notice and opportunity for hearing as provided by Section 24 of this Act. Any interested party aggrieved by any decision of the Commissioner pursuant to such hearing may appeal to the district court of Travis County, Texas, in the manner provided by Section 27 of this Act.³ A judgment sustaining the Commissioner in the action complained of shall not bar after one year an application by the plaintiff for approval of its manual or manuals hereunder, nor shall a judgment in favor of the plaintiff prevent the Commissioner from thereafter revoking such recognition for any proper cause which may thereafter accrue or be discovered. As amended Acts 1963, 58th Leg., p. 473, ch. 170, § 5.

¹ Article 581—7.

² Article 581—24.

³ Article 581—27.

R. The sale by the issuer itself, or by a subsidiary of such issuer, of any securities which would be exempt if sold by a registered dealer under Section 6 (other than Subsection 6—E) of this Act. Added Acts 1963, 58th Leg., p. 473, ch. 170, § 6.

Effective 90 days after May 24, 1963, date of adjournment.

Sections 1 to 12a of the amendatory act of 1963 amended various articles of the Securities Act. Section 13 was a severability provision. Section 14 thereof provided: "Prior law exclusively

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

governs all suits, actions, proceedings, rights, liabilities and causes of action which are pending or accrue before the effective date of this Act; and same shall continue and remain in full force and effect until terminated as under the law now in force."

Art. 581—7. Permit or Registration for Issue by Commissioner; Information for Issuance of Permit or Registration

A. Qualification of Securities.

(1) No dealer, agent or salesman shall sell or offer for sale any securities issued after September 6, 1955, except those which shall have been registered by Notification under subdivision B or by Coordination under subdivision C of this Section 7 and except those which come within the classes enumerated in subdivisions A to R, both inclusive, of Section 5 of this Act,¹ or subdivisions A to K, both inclusive, of Section 6 of this Act,² until the issuer of such securities or a dealer registered under the provisions of this Act shall have been granted a permit by the Commissioner; and no such permit shall be granted by the Commissioner until the issuer of such securities or a dealer registered under the provisions of this Act shall have filed with the Commissioner a sworn statement verified under the oath of an executive officer or partner of the issuer, or of such registered dealer, and attested by the secretary or partner thereof, setting forth the following information:

a. The names, residences and post office addresses of the officers and directors of the company;

b. The location of its principal office and of all branch offices in this State, if any;

c. A copy of its articles of incorporation or partnership or association, as the case may be, and of any amendments thereto, if any; if a corporation, a copy of all minutes of any proceedings of its directors, stockholders or members relating to or affecting the issue of said security; if a corporation, a copy of its bylaws and of any amendments thereto; if a trustee, a copy of all instruments by which the trust is created and in which it is accepted, acknowledged or declared;

d. A statement showing the amount of capital stock, if any, and if no capital stock, the amount of capital of the issuer that is contemplated to be employed; the number of shares into which such stock is divided, or if not divided into shares of stock, what division is to be made or is contemplated; the par value of each share, or if no par stock, the price at which such security is proposed to be sold; the promotional fees or commissions to be paid for the sale of same, including any and all compensations of every nature that are in any way to be allowed the promoters or allowed for the sale of same; and how such compensation is to be paid, whether in cash, securities, service or otherwise, or partly of either or both; also, the amount of cash to be paid, or securities to be issued, given, transferred or sold to promoters for promotion or organization services and expenses, and the amount of promotion or organization services and expenses which will be assumed or in any way paid by the issuer;

e. Copies of certificates of the stock and all other securities to be sold, or offered for sale, together with application blanks therefor; a copy of any contract it proposes to make concerning such security; a copy of any prospectus or advertisement or other description of security prepared by or for it for distribution or publication;

f. A detailed statement prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, showing all the assets and all the liabilities of the issuer, said statement to reflect the financial condition of the issuer on a day not more than ninety (90) days prior to the date such statement is filed. Such statement shall list all assets in detail and shall show how the value of such assets was determined, that is, whether the value set forth in said statement represents the actual cost in money of such assets, or whether such value represents their present market value, or some other value than the actual cost in money, and shall show the present actual value of said assets; also, whether the value set forth in the statement is greater or less than the actual cost value in money and greater or less than the present market value of such assets. If any of the assets consist of real estate, then said statement shall show the amount for which said real estate is rendered for State and county taxes, or assessed for taxes. If any such assets listed shall consist of anything other than cash and real estate, same shall be set out in detail so as to give the Commissioner the fullest possible information concerning same, and the Commissioner shall have the power to require the filing of such additional information as he may deem necessary to determine whether or not the true value of said assets are reflected in the statement filed. Should any of the assets listed in said statement be subject to any repurchase agreement, or any other agreement of like character, by the terms of which the absolute ownership of, or title to said assets is qualified or limited in any way, then the terms and conditions of said agreement by which the absolute ownership of, or title to said assets is qualified or limited, as well as the amount and character of the assets subject thereto shall be fully stated. Said statement shall list all current liabilities, that is, all liabilities which will mature and become due within one year from the date of such application, and shall list separately from such current liabilities, all other liabilities, contingent or otherwise, showing the amount of those which are secured by mortgage or otherwise, the assets of the issuer which are subject to such mortgage, and the dates of maturity of any such mortgage indebtedness. Such application shall also include a detailed profit and loss statement, prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, which shall cover the last three (3) years' operations of the issuer, if such issuer has been in operation for three (3) years, but if not, said profit and loss statement shall cover the time that said issuer has been operating. If said issuer has not been operating, but is taking over a concern of any kind which has been previously operating, then a financial and profit and loss statement showing the operations of the concern thus taken over for a period of the last three (3) years next preceding the taking over of said concern shall be included in said statement; said profit and loss statement shall clearly reflect the amount of net profit or net loss incurred during each of the years shown. As amended Acts 1963, 58th Leg., p. 473, ch. 170, § 12a.

¹ Article 581—5.

² This article.

Effective 90 days after May 24, 1963, date of adjournment.

D. TERMINATION OF FISCAL YEAR; CERTIFICATION OF STATEMENTS.

D. If the fiscal year of the issuer terminated on a date more than 90 days prior to the date of the filing, then the financial statements required in Subsections A and B of this Section 7, which must be as of

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

a date not more than 90 days prior to the date of filing, need not be certified by an independent certified public or independent public accountant if there are filed in addition thereto financial statements containing the information required by the applicable subdivision which are certified by an independent certified public or independent public accountant as of the end of the preceding fiscal year of the issuer. Added Acts 1963, 58th Leg., p. 473, ch. 170, § 7.

Effective 90 days after May 24, 1963, date of adjournment.

Effect of 1963 amendment of this article on all suits, actions, proceedings, rights, liabilities and causes of action pending or accruing before the effective date of the amendatory act, see note under art. 581—5.

Art. 581—9. Protection to Purchasers of Securities

B. The total expenses for marketing securities, including all commissions for the sale of such securities, and all other incidental selling expenses, shall not in the aggregate exceed twenty per cent (20%) of the price at which the stock or other securities of any proposed or existing company are to be sold, or offered for sale, to the public of this State; and this amount may be limited by the Commissioner to a less percentage which is in his opinion fair, just and equitable under the facts of the particular case. As amended Acts 1963, 58th Leg., p. 473, ch. 170, § 8.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 581—13. Method of Registration Required of Each Dealer and Each Agent or Salesman of Each Dealer

A. A dealer to be registered must submit a sworn application therefor to the Commissioner, which shall be in such form as the Commissioner may determine and which shall state:

- (1) The principal place of business of the applicant wherever situated;
- (2) The location of the principal place of business and all branch offices in this state, if any;
- (3) The name or style of doing business and the address of the dealer;
- (4) The names, residences and the business addresses of all persons interested in the business as principal, officer, director or managing agent, specified as to each his capacity and title; and
- (5) The general plan and character of business of such applicant and the length of time during and the places at which the dealer has been engaged in the business.

B. Such application shall also contain such additional information as to applicant's previous history, record, associations and present financial condition as may be required by the Commissioner, or as is necessary to enable the Commissioner to determine whether the sale of any securities proposed to be issued or dealt in by such applicant would result in fraud.

C. Each application shall be accompanied by certificates or other evidences satisfactory to the Commissioner establishing the good reputation of the applicant, his directors, officers, copartners or principals.

D. The Commissioner shall require as a condition of registration for all registrations granted after the effective date of this Subsection D

that the applicant (and, in the case of a corporation or partnership, the officers, directors or partners to be licensed by the applicant) pass successfully a written examination to determine the applicant's qualifications and competency to engage in the business of dealing in and selling securities as a dealer or as a salesman, or rendering services as an investment adviser. This condition may be waived as to any applicant or class of applicants by action of the State Securities Board.

E. If the applicant is a corporation organized under the laws of any other state or territory or government or shall have its principal place of business therein, it shall accompany the application with a copy of its Articles of Incorporation and all amendments thereto, certified by the proper officer of such state or government or of the corporation, and its regulations and bylaws.

F. If a limited partnership, either a copy of its Articles of Copartnership or a verified statement of the plan of doing business.

G. If an unincorporated association or organization under the laws of any other state, territory or government, or having its principal place of business therein, a copy of its Articles of Association, Trust Agreement or other form of organization.

H. It shall be the duty of the Commissioner to prepare a proper form to be used by the applicant under the terms of this Section, and the Commissioner shall furnish copies thereof to all persons desiring to make application to be registered as a dealer. As amended Acts 1957, 55th Leg., p. 575, ch. 269, § 13; Acts 1963, 58th Leg., p. 473, ch. 170, § 9.

Effective 90 days after May 24, 1963, date of adjournment.

Effect of 1963 amendment of this article on all suits, actions, proceedings, rights, liabilities and causes of action pending or accruing before the effective date of the amendatory act, see note under art. 581—5.

Art. 581—14. Bases for Denial, Suspension or Revocation of Registration as Dealer or Agent or Salesman

G. Has not complied with a condition imposed by the Commissioner under Section 13—D. Provided, however, that this Subsection G shall not apply to any person or company registered as a dealer or salesman on the effective date of this Subsection G. Added Acts 1963, 58th Leg., p. 473, ch. 170, § 10.

Effective 90 days after May 24, 1963, date of adjournment.

Effect of 1963 amendment of this article on all suits, actions, proceedings, rights, liabilities and causes of action pending or accruing before the effective date of the amendatory act, see note under art. 581—5.

Art. 581—29. Penal Provisions

G. Repealed. Acts 1963, 58th Leg., p. 473, ch. 170, § 11.

Effect of 1963 amendment of this article on all suits, actions, proceedings, rights, liabilities and causes of action pending or accruing before the effective date of the amendatory act, see note under art. 581—5.

Art. 581—33. Civil Liberties**A. Any person who**

(1) Offers or sells a security in violation of Sections 7, 9¹ (or any requirement of the Commissioner thereunder), 12, 23B or any order under 23A of this Act,² or

(2) Offers or sells a security (whether or not the security or transaction is exempt under Section 5 or 6 of this Act)³ by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made not misleading (when the person buying the security does not know of the untruth or omission, and who in the exercise of reasonable care could not have known of the untruth or omission) is liable to the person buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at six per cent (6%) per year from the date of payment, less the amount of any income received on the security upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at six per cent (6%) per year on such value from the date of disposition. Nothing herein shall prevent the award of punitive or exemplary damages in an amount not to exceed twice the actual damages, as found by the jury, when such false representation or omission is proven to be willfully made.

B. Every cause of action under this Act⁴ survives the death of any person who might have been a plaintiff or defendant.

C. No person may sue under Subsection A(1) of this Section 33⁵ more than three (3) years after the contract of sale. No person may sue under said Subsection A(1) if the buyer received a written offer accompanied by reasonable financial information before suit and at a time when he owned the security, to refund the consideration paid together with interest at six per cent (6%) per year from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within thirty (30) days of its receipt; or if the buyer received such an offer in the amount specified above less the value of the security when the buyer disposed of it, and less interest at six per cent (6%) per year on such value from date of disposition, before suit and at a time when he did not own the security, unless he rejected the offer in writing within thirty (30) days of its receipt. In connection with any such offer, the seller shall deposit funds in escrow in a state or national bank doing business in the State of Texas, or receive an unqualified commitment from such bank to furnish funds, sufficient to provide for the refund on all securities covered by the offer. The notice accompanying such offer shall state (1) the name of such bank where the refund may be obtained upon surrender of the security, or if the buyer has disposed of such security upon satisfactory proof of such disposition and of the value received therefor, and (2) that buyer, upon receipt of the refund, may not sue to recover the consideration paid plus interest or for damages under Subsection A(1) of this Section 33, and (3) that the buyer, in the event of failure to accept the offer within thirty (30) days of its receipt, may not sue to recover the consideration paid plus interest or for damages under Subsection A(1) of this Section 33. No person may sue under Subsection A(2) more than three (3) years after the contract of sale or more than three (3) years after the buyer in the exercise of ordinary care should have discovered that such sale was made in violation of said Subsection A(2). Nothing in this Subsection C shall affect or restrict

the periods of limitation or other rights applicable to causes of action based on fraud brought pursuant to Article 4004 of the Revised Civil Statutes.

D. No person who has made or engaged in the performance of any contract in violation of any provision of this Act or any rule or order or requirement hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract.

E. Any condition, stipulation or provision binding any person acquiring any security to waive compliance with any provision of this Act or any rule or order or requirement hereunder is void.

F. The rights and remedies provided by this Act are in addition to any other rights or remedies that may exist at law or in equity. As amended Acts 1963, 58th Leg., p. 473, ch. 170, § 12.

¹ Articles 581—7, 581—9.

² Articles 581—12, 581—23.

³ Articles 581—5, 581—6.

⁴ Article 581—1 et seq.

⁵ Article 581—33.

Effective 90 days after May 24, 1963, date of adjournment.

Effect of 1963 amendment of this article on all suits, actions, proceedings, rights, liabilities and causes of action pending or accruing before the effective date of the amendatory act, see note under art. 581—5.

Art. 582—1. Uniform Act for Fiduciary Security Transfers

Guarantee of signature

Sec. 3a. The signature on the transfer of any security coming within the terms of this Act shall be guaranteed by an officer of a bank which is a member of the Federal Reserve System or an officer of any banking corporation organized and existing under the laws of the State of Texas, as defined in Acts, 1943, Forty-eighth Legislature, page 128, Chapter 97, Subchapter I, Article 2 (Chapter I, Title 16, of the Civil Statutes of the State of Texas). As amended Acts 1963, 58th Leg., p. 55, ch. 37, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 20—BOARD OF CONTROL

CHAPTER TWO—DIVISION OF PUBLIC PRINTING

Arts. 607—629. Repealed. Acts 1962, 57th Leg., 3rd C.S., p. 146, ch. 47, § 2. Eff. 90 days after Feb. 1, 1962, date of adjournment

Prior to repeal, art. 613, relating to bidder's bond or security, was amended by Acts 1955, 54th Leg., p. 846, ch. 314, § 1. See, now, art. 664—3.

Art 630. Contracts; approval

Any contracts which are subject to the provisions of the State Purchasing Act of 1957¹ and which contracts are further subject to the provisions of Section 21 of Article 16 of the Constitution shall be subject to the approval of the Governor, the Secretary of State, and the Comptroller. As amended Acts 1962, 57th Leg., 3rd C.S., p. 146, ch. 47, § 1.

¹ Article 664—3.

Effective 90 days after Feb. 1, 1962, date of adjournment.

Contracts, approval, see art. 630.
State Purchasing Act of 1957, see art. 664—3.

CHAPTER THREE—PURCHASING DIVISION

Art. 634(B). School buses

Purchase of school buses on competitive bids, see art. 6701d, § 105.

CHAPTER FOUR—PUBLIC BUILDINGS AND
GROUNDS DIVISION

Art. 678e. Protection and policing of state buildings and grounds [New].

Art. 678e. Protection and policing of state buildings and grounds

Trespass or damage to capitol, governor's mansion, state office buildings and grounds; state cemetery; board of control warehouse and storage area

Section 1. It shall be unlawful for any person to trespass upon the grass plots or flowerbeds, or to damage or deface any of the buildings, or cut down, deface, mutilate or otherwise injure any of the statues, monuments, memorials, trees, shrubs, grasses or flowers on the grounds or commit any other trespass upon any property of the state, real or personal, located on the grounds of the State Capitol or other property owned by the State of Texas bounded by Eleventh Street, Nineteenth Street, San Jacinto Street and Colorado Street in the City of Austin; or on the grounds of the Governor's Mansion bounded by Tenth Street, Eleventh Street, Colorado Street and Lavaca Street in the City of Austin; or on the State Cemetery grounds bounded by Seventh Street, Comal Street, Eleventh Street and Navasota Street in the City of Austin; or on the Board of Control warehouse and storage area bounded by First Street, Trinity Street, Waller Creek, and the alley in Block No. 183 in the City of Austin. The performance of construction, landscaping, and gardening work authorized by the

Legislature, the Board of Control, or the State Building Commission shall not be construed to be prohibited under the provisions of this Act.

Parking on state property

Sec. 2. Except on Saturdays, Sundays and holidays it shall be unlawful for any person, other than state officials, state employees, visitors, and persons having lawful business in the buildings, to park upon and within property owned by the State of Texas within the bounds set forth in Section 1, between the hours of 7:00 AM and 6:00 PM, whenever the buildings are open for business.

Parking facilities for legislators

Sec. 3. When the Legislature is in session members of the Legislature shall each be assigned, in a manner agreeable to the members of the respective bodies, a reserved parking space on the Capitol driveways for his unrestricted use during the time the Legislature is in session, either regular or any called session thereof. The use of any space assigned to any member of the Legislature for his unrestricted use during the time the Legislature is in session by an unauthorized person or his vehicle, or by the person or properly identified vehicle of a state employee not a member of the Legislature, shall constitute a misdemeanor punishable as hereinafter provided for.

Regulation and control of parking and traffic; marking and designation of parking spaces; assignment of officer

Sec. 4. It shall be unlawful for anyone to park any vehicle except in the spaces and manner now marked and designated or that may be hereafter marked and designated by the State Board of Control, or to block or impede traffic through the driveways upon any property owned by the State of Texas within the bounds set forth in Section 1. The State Board of Control is hereby authorized to request the State Highway Department to assist it in the marking and/or designation of such parking spaces as the Board of Control shall deem necessary and to maintain the painting of lines, curb markings and furnish such directional or informational signs as the Board of Control shall deem necessary. The Texas Department of Public Safety shall provide advice and assistance to the Board of Control when requested and shall at all times have at least one commissioned officer assigned to duty in the Capitol area.

Speed limits

Sec. 5. It shall be unlawful to operate a motor vehicle upon any property owned by the State of Texas within the bounds set forth in Section 1 at a speed in excess of fifteen (15) miles per hour. All laws regulating traffic upon highways and streets shall apply to the operation of motor vehicles within the prescribed areas, except as modified hereby.

General and criminal laws

Sec. 6. All of the general and criminal laws of the state are declared to be in full force and effect within the areas regulated by this Act.

Watchmen; designation as peace officers; powers and duties; bond

Sec. 7. The State Board of Control is authorized to employ watchmen for the purpose of carrying out the provisions of this Act and may commission such watchmen as it deems necessary as peace officers only after such watchmen have been approved for such duty by the Director of the Department of Public Safety, and when so commissioned said officers are

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

hereby vested with all the powers, privileges and immunities of peace officers while on the areas regulated by this Act or in fresh pursuit of those violating the law in such areas; provided, that such watchmen assigned to such duties and so commissioned shall take and file the oath required of peace officers and shall execute and file with the State Board of Control a good and sufficient bond in the sum of One Thousand Dollars (\$1,000) payable to the Governor of this state and his successors in office with two or more good and sufficient sureties conditioned that he will fairly and faithfully perform all of the duties as may be required of him by law, and that he will fairly and impartially enforce the law of this state and that he will pay over any and all monies, or turn over any and all property, to the proper person legally entitled to the same, that may come into his possession by virtue of such office. Said bond shall not be void for the first recovery but may be sued on from time to time in the name of any person injured until the whole amount thereof is recovered. It shall be unlawful and constitute a misdemeanor punishable as provided in this Act for any person or persons to impersonate any of said officers.

Firearms

Sec. 7a. Such officers shall not have the authority to carry firearms.

Enforcement of criminal laws; arrest

Sec. 8. In addition to the enforcement of this Act by the watchmen mentioned above, all commissioned officers of the Texas Department of Public Safety, the Sheriff and Sheriff's Deputies of Travis County, and police officers of the City of Austin, are authorized and empowered to enforce the criminal laws of this state and the provisions of this Act within the areas regulated herein, and all of said officers are vested with authority to pursue and arrest any person for any offense when said person is found in such areas or is fleeing therefrom.

Violations; punishment

Sec. 9. Any person who violates 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 more than Two Hundred Dollars (\$200). The penalties for violation of any of the other criminal laws of the state shall be as now provided by law.

Traffic tickets and summons

Sec. 10. In connection with traffic and parking violations only, the officers authorized to enforce the provisions of this Act, shall have the authority to issue and use traffic tickets and summons of the type now used by the City of Austin and/or the Texas Highway Patrol with such changes as are necessitated thereby to be prepared and furnished by the State Board of Control. Upon the issuance of any such traffic ticket or summons the same procedures shall be followed as now prevail in connection with the use of parking and traffic violation tickets by the City of Austin and the Texas Highway Patrol. Nothing herein shall restrict the application and use of regular arrest warrants.

Enforcement; rules and regulations; signs

Sec. 11. The primary responsibility for enforcing the provisions of this Act shall be with the State Board of Control, which shall have authority to promulgate rules and regulations not inconsistent with this Act or other provisions of law as it may deem necessary to carry out the pro-

visions of this Act. Whenever the Board shall have promulgated such a rule or regulation and has posted signs in any of the regulated areas giving notice thereof, it shall be unlawful for any person to violate any of the provisions of such signs and shall constitute a misdemeanor punishable as provided in this Act.

Automobile identification insignia

Sec. 12. Provision is hereby made for the issuance and required use of suitable automobile identification insignia, to be issued upon proper certification to the Board of Control by the Secretary of State of the names of members of the Legislature, the Governor, the Lieutenant Governor, and other elected state officials, to be affixed to the inside of the windshield of the automobile of the state official and in the approximate bottom or top center of said windshield immediately back of the rear view mirror to provide immediate recognition of the owner of the vehicle as an elected state official. Provision is also made hereby for the certification by the administrative heads of the respective state agencies located in Austin of the names of board and commission members, and state employees entitled to receive and use an "official" or an "employee" vehicle identification insignia to be affixed to the windshield of a vehicle in the same manner as described above. It is further provided hereby that such vehicle identification insignia shall be of different color or a combination of colors to identify each of the following: (a) Elected state officials, (b) administrative heads of state agencies and members of boards and commissions and (c) regular state employees, all of whom shall be privileged to use and park upon state driveways in the areas hereinabove designated without penalty except for violation of existing law as hereinbefore provided and rules and regulations promulgated by the Board of Control. Each vehicle identification insignia shall be serially numbered; a record of such serially numbered insignia issued by the Board of Control shall be maintained. Insignia color or colors shall be changed effective January first of each calendar year; insignia shall be valid from January first to December thirty-first of each year.

Each administrative head of any state agency located in Austin shall be responsible to the Board of Control for notification to the board of the termination of any state employee to whom vehicle identification insignia has been issued. Upon receipt of such certification of the termination of employment by a state agency of an employee, then and thereafter such person or former employee who shall continue to falsely use any vehicle identification device, shall be deemed guilty of a misdemeanor punishable as provided for in Section 9 of this Act.

Jurisdiction of municipal court and justice of the peace

Sec. 13. The judge of the municipal court and/or any justice of the peace in Austin are each hereby separately vested with all jurisdiction necessary to hear, try and determine criminal cases involving violations hereof where punishment does not exceed a fine of Two Hundred Dollars (\$200).

Permission to use grounds

Sec. 14. Nothing herein contained shall be construed to abridge the authority of the State Board of Control to grant permission to use the Capitol grounds and any grounds adjacent to any state building, for such use as may be provided by preexisting law.

Repealer

Sec. 15. All Acts or parts of Acts inconsistent herewith are hereby repealed. Acts 1963, 58th Leg., p. 178, ch. 102.

Effective 90 days after May 24, 1963, date of adjournment.

Exceptions to speed law, see Vernon's Ann.P.C. art. 791.

Arrests for speeding, see Vernon's Ann. P.C. art. 803a.

Obstructing public road or street, see Vernon's Ann.P.C. art. 784.

CHAPTER FOUR A—STATE BUILDING COMMISSION [NEW]**Art. 678m. Building Commission****Title of realty acquired by Commission for sites and buildings thereon; transfer of management of buildings to Board of Control**

Sec. 7. The Commission shall obtain title for the state and retain control of the real property acquired for sites and of the buildings located thereon until final construction is completed and the buildings are occupied by the state agencies to be housed therein, at which time the management and control of said buildings including the inventory values of the sites and the buildings located thereon, shall be transferred to the Board of Control. Except as otherwise provided in this Act, the initial occupants shall be those state agencies agreed upon by the Commission and the Board of Control. This Section, as amended, shall apply to all new state buildings constructed heretofore or that may be constructed hereafter in Austin, by the State Building Commission. As amended Acts 1963, 58th Leg., p. 1185, ch. 470, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Monuments and memorials; erection and maintenance

Sec. 15. Monuments or memorials for the Texas heroes of the Confederate States of America and the Texas War for Independence, or to commemorate any other event or person of historical significance to Texans and the State of Texas may be erected on land owned or acquired by the state or, if suitable contracts can be made for permanent preservation of such monuments or memorials, on private property or on land owned by the federal government or by other states. The locating and marking of graves of such Texans is hereby authorized. The Commission is further authorized to maintain and shall be responsible for the continuing maintenance of the monuments and memorials erected by the State of Texas to commemorate the Centenary of Texas Independence. Before erection of any new monument or memorial the Commission shall obtain the approval of the Texas State Historical Survey Committee as to the form, dimensions, substance of and inscriptions or illustrations upon such monuments or memorials. As amended Acts 1963, 58th Leg., p. 520, ch. 194, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Acquisition of land with historic or prehistoric sites and features

Sec. 16A. The Commission is hereby authorized to acquire by gift, devise, purchase, or by its general power of eminent domain set out in Section 6 above, any lands on which are situated historic buildings, sites, or landmarks of state-wide historical significance associated with historic events or personalities, or prehistoric ruins, burial grounds, archaeological

or vertebrate paleontological sites, sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historical feature, within the limits of the State of Texas. The right of eminent domain conferred above as relating to historical sites, buildings, and structures shall not be exercised except upon a proper showing that it is necessary to prevent destruction or deterioration of the historical site, building or structure. The Commission is hereby authorized to request from the Texas State Historical Survey Committee a certification or authentication of the worthiness of preservation of the features listed above. Added Acts 1963, 58th Leg., p. 520, ch. 194, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 520, ch. 194, § 3 repealed all conflicting laws to the extent of such conflict.

Cities, acquisition of lands and buildings for parks, playgrounds, historical museums and sites, see art. 6081e.

County historical survey committee, see art. 6145.1.

Damage or removal of archaeological or vertebrate paleontological sites, see Vernon's Ann.P.C. art. 147b-1.

Destruction or removal of historical structure, marker or artifact, see Vernon's Ann.P.C. art. 147b-2.

Texas state historical survey committee, see art. 6145.

**TITLE 20A—BOARD AND DEPARTMENT OF
PUBLIC WELFARE**

Art.

695c—1. Finding deserting fathers [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) "Commissioner of Public Welfare" means Commissioner 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 and Services to Needy Families with Children" means money payments and services with respect to needy families with a dependent child or 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. As amended Acts 1963, 58th Leg., p. 83, ch. 53, § 1.

Emergency. Effective April 12, 1963.

Duties and functions of State Department

Sec. 4.

(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. 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 Commissioner 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; As amended Acts 1963, 58th Leg., p. 700, ch. 257, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Aid and services to needy families with children

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

- (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 application for assistance; or was born within the State within one (1) year immediately preceding the date of application and whose mother or other relative with whom the child is living 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 sixteen (16) 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, stepsister, uncle, aunt, first cousin, nephew, or niece, 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. In determining need, the State Department of Public Welfare shall take into consideration any other income and resources of any child or relative claiming Aid to Families with Dependent Children, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, the State Department may, subject to limitations prescribed by the Department, permit all or any portion of the earned or other income to be set aside for the future identifiable needs of the dependent child. As amended Acts 1963, 58th Leg., p. 84, ch. 53, § 2. Emergency. Effective April 12, 1963.

Dependent child; definition

Sec. 17-A. The term "dependent child" shall, notwithstanding the provisions of Section 17 of this Act, also include a child:

- (1) Who would meet the requirements of such Section 17 except for his removal from the home of a relative as specified in said Section, as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child; and
- (2) Whose placement and care are the responsibility of the State Department of Public Welfare or local Child Welfare Unit or some other public agency with whom the State Department of Public Welfare has made an agreement for the care and supervision of such child, and in compliance with the rules and regulations promulgated by the State Department of Public Welfare for carrying out the provisions of this Act and for whose placement and care the State Department of Public Welfare is responsible, and who has been placed in a foster family home or child-caring institution as a result of such determination, and who received Aid to Families with Dependent Children in or for the month in which the court proceedings were initiated. Added Acts 1963, 58th Leg., p. 84, ch. 53, § 2.

Emergency. Effective April 12, 1963.

Needy family with 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 family with dependent children shall be determined by the State Department through its district or county agencies in the district or county in which the needy family with dependent children resides with due consideration to the income and other resources of such family in compliance with Sub-section (6) of Section 17 of this Act and in accordance with the rules and regulations of the State Department. The amount of assistance given shall provide such needy family with dependent children with a reasonable subsistence compatible with decency and health, within the limitations and provisions of the Constitution of Texas as are now provided or as may hereafter be provided. As amended Acts 1963, 58th Leg., p. 84, ch. 53, § 3.

Emergency. Effective April 12, 1963.

Program for welfare and related services

Sec. 18-A. The State Department of Public Welfare shall provide for the development and application of a program for such welfare and related services for each child who receives Aid to Families with Dependent Children as may be necessary in the light of the particular home conditions and other needs of such child, and provide for co-ordination of such Programs with any other services provided for children in the State, and particularly with the Child Welfare Services provided by the Department, with a view of making available welfare and related services which will best promote the welfare of such child and his family and which will help to maintain and strengthen family life by helping such parents or relatives to attain or retain their capabilities for maximum self-support and personal independence consistent with the maintenance of continued parental care and protection, and in accordance with reasonable rules and regulations prescribed by the State Department of Public Welfare in cooperation with other public and private welfare agencies for the care and protection of children. Added Acts 1963, 58th Leg., p. 84, ch. 53, § 3.

Emergency. Effective April 12, 1963.

Support from parent of child living outside home

Sec. 18-B. In considering the resources and income available to families with dependent children, the State Department of Public Welfare shall explore with the parent or other relative with whom the child is living the possibility of obtaining support and/or services on behalf of such child from the parent of such child who is living outside the home, and shall, in all cases where it seems appropriate and feasible to the Department, require the parent or other relative with whom the child is living to take whatever action is necessary to obtain maximum support which has been ordered pursuant to a court order for the support of said child, and shall consider such support payments wherever available in determining the needs and resources of the family with dependent children. The Department shall also provide for prompt notice to appropriate law enforcement officials of the furnishing of Aid to Families with Dependent Children in respect to a child who has been deserted or abandoned by a parent. Added Acts 1963, 58th Leg., p. 84, ch. 53, § 3.

Emergency. Effective April 12, 1963.

Assistance to needy family with dependent children living with relatives

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

with dependent children as defined in this Act, and that such needy dependent child meets the other provisions of this Act and that such child is living, or will live, with one or more of the relatives prescribed in this Act, assistance and/or services may be allowed for the support of such needy family with dependent children. It is expressly provided that the Department shall:

(1) Formulate policies for studying and improving the home conditions and specific needs of the child,

(2) Make plans for services for the protection of children especially in relation to specific needs of children such as health and educational opportunities. The State Department shall require that each dependent child between the ages of fourteen (14) and sixteen (16) years to whose family or relatives or others assistance or services are allowed for the support of such dependent child shall remain enrolled in the regular term of school in the community in which the child resides, unless the State Department finds that good cause exists for the nonattendance of the child at school. Failure to comply with this requirement shall, under applicable rules and regulations of the State Department, constitute good cause for a termination of such assistance or services,

(3) Develop a mutual plan of co-ordination between the Aid to Needy Families with Dependent Children and the Child Welfare Services Programs in order to carry out its responsibilities for the protection and care of children as provided in this Act. As amended Acts 1963, 58th Leg., p. 84, ch. 53, § 4.

Emergency. Effective April 12, 1963.

Counseling and guidance services

Sec. 19-A. Whenever the State Department of Public Welfare has reason to believe that any payments of Aid to Families with Dependent Children made with respect to a child are not being or may not be used in the best interest of the child, the State Department of Public Welfare may provide for counseling and guidance services with respect to the use of such payments and the management of other funds by the relative receiving such payments as is deemed advisable in order to assure use of the payments in the best interest of the child, and may provide for advising the relative that continued failure to so use such payments will result in substitution therefor of protective payments. If the State Department of Public Welfare determines that protective payments are required in order to safeguard the best interest of the child, payments to a substitute payee may be made on a temporary basis in accordance with rules and regulations promulgated by the State Department of Public Welfare. If the situation in the home which made the protective payments necessary does not improve and it is determined that the relative with whom the children are living is unable or does not have the capacity to use the funds for the best interest of the children, then the Department may arrange with the family for other plans for the care of the children, such as removal of the children to the home of other relatives; the appointment of a guardian or legal representative of such relative with whom the child is living, and/or the imposition of criminal or civil penalties authorized under State Law if it is determined by a court of competent jurisdiction that such relative is not using or has not used for the benefit of the child any such payments made for that purpose, or the referral to a court of competent jurisdiction for removal of the child and placement in a foster home. The State Department of Public Welfare is further authorized to make payments on behalf of dependent children residing in foster family homes or child-caring institutions in accordance with the provisions of this Act and the

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

rules and regulations promulgated by the Department. Added Acts 1963, 58th Leg., p. 84, ch. 53, § 4.

Emergency. Effective April 12, 1963.

Recipient moving out of state; payments to vendors of medical assistance

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.

Any person who is receiving Public Assistance as the term is defined in Senate Bill No. 79, Acts of the 57th Legislature, Regular Session, 1961, and being codified in Vernon's Texas Civil Statutes as Article 695j, shall be eligible for Medical Assistance as the term is defined in Senate Bill No. 79, so long as such recipient continues to be eligible to receive Old Age Assistance; and payments to vendors of Medical Assistance on behalf of such recipients, while temporarily visiting outside of the state, may be made on behalf of such recipients on a temporary basis for such periods of time and in accordance with the rules and regulations promulgated by the State Department of Public Welfare so long as said person remains eligible to receive Old Age Assistance from this state. As amended Acts 1962, 57th Leg., 3rd C.S., p. 205, ch. 80, § 1.

Emergency. Effective Feb. 19, 1962.

Acts 1963, 58th Leg., p. 84, ch. 53, § 5, repealed conflicting laws and parts of laws. Section 5A thereof provided: "On and after the effective date of this Act, wherever the reference is made in the laws of this State to 'Aid to Dependent Children,' the title of such Aid shall be changed

to hereafter be known as 'Aid and Services to Needy Families with Children.' "

Misrepresentation of nonresident in application for medical aid from state or county hospital, see Vernon's Ann.P.C. art. 782d.

Art. 695c—1. Finding deserting fathers

Section 1. In this Act, unless the context otherwise requires:

(a) "Deserting father" means a father who is divorced from, legally separated from or continually absent from his family and who neglects, or refuses to provide for the support of his children to the best of his ability.

(b) "Department" means the Department of Public Welfare.

(c) "Deserted child" means the child of a deserting father.

Sec. 2. The Department is hereby charged with the responsibility for finding a deserting father of any family applying for aid to dependent children, as provided for in the "Public Welfare Act of 1941," as heretofore or hereafter amended.

Sec. 3. The Department shall negotiate an agreement with the Federal Social Security Administration in accordance with State's Letter No. 198 so that location information can be obtained concerning any deserting father who leaves Texas and goes to another state.

Sec. 4. The mother or guardian of a deserted child shall supply the Department details concerning the deserting father such as complete name, known aliases or nicknames, date and place of birth, Social Security number, and such other information as shall be deemed necessary or advantageous in locating such father. The mother or guardian shall supply the Department any information she receives as to the whereabouts of

the deserting father during the search for said father and shall initiate, with the assistance of the Department if necessary, any court action that is required to compel child support. Acts 1963, 58th Leg., p. 690, ch. 253.

Effective 90 days after May 24, 1963, date of adjournment.

Wife and child desertion, see Vernon's Ann.P.C. art. 602 et seq.

Suit against parent failing to support child, see art. 4639b.

Art. 695g. Federal old age and survivors insurance coverage for county and municipal employees

Definitions

Section 1. The following definitions of words and terms shall apply as used in this Act:

(a) The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act,¹ would not constitute "wages" within the meaning of that Act.

(b) The term "employment" means any service performed by an employee in the employ of a county or municipality or other political subdivision of the state except (1) service which in the absence of an agreement entered into under this Act would constitute "employment" as defined in the Social Security Act; or (2) service which under the Social Security Act may not be included in an agreement between the State and the Federal Security Administrator entered into under this Act; or (3) service in any policeman's position, which is subject to an existing Retirement System at the time the agreement is undertaken, in incorporated cities having a population of 250,000 or more according to the most recent decennial Federal Census prior to the date of said agreement. As amended Acts 1955, 54th Leg., p. 1254, ch. 502, § 1; Acts 1963, 58th Leg., p. 1170, ch. 456, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

county hospital, see Vernon's Ann.P.C. art. 782d.

Misrepresentation of nonresident in application for medical aid from state or

Public welfare act of 1941, see art. 695c.

TITLE 21—BOND INVESTMENT COMPANIES

Art. 696. 1309 Deposit

Securities Act, see art. 581—1 et seq.

TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.

CHAPTER ONE—GENERAL PROVISIONS AND REGULATIONS

Art. 701. 605 Shall hold election

Park facilities, construction in cities over 650,000 population, see art. 6081j.

CHAPTER TWO—COURTHOUSE, JAIL AND OTHER BONDS

Art.

725c. Validation of proceedings in connection with bonds for courthouse and jail buildings [New].

Art. 718. [610] [877] County issues authorized

After having been authorized as provided in Chapter One of this title, the Commissioners Court of a county may lawfully issue the bonds of said county for the following purposes:

1. To erect the county courthouse and jail, or either;
2. To purchase suitable sites within the county and construct buildings thereon to provide homes or schools for dependent and delinquent boys and girls or for either;
3. To establish county poor houses, farms, and homes for the needy or indigent in the county;
4. To purchase and construct bridges for public purposes within the county or across a stream that constitutes a boundary line of the county; or
5. To improve and maintain the public roads in the county.

When the Commissioners Court shall deem it advisable to issue bonds for both the purchase or construction of bridges and improvement and maintenance of the public roads, both questions may be submitted and voted on as one proposition. As amended Acts 1963, 58th Leg., p. 329, ch. 124, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Counties of less than 20,000, joint financing and construction of jails with cities, see art. 5115a.

Art. 725c. Validation of proceedings in connection with bonds for courthouse and jail buildings

Section 1. All proceedings in connection with any county bonds heretofore favorably voted by a majority of the participating resident qualified electors of the county who owned taxable property and who had duly rendered the same for taxation on the tax rolls of such county, for the purpose of erecting, repairing and equipping courthouse and jail buildings and county branch office buildings, are hereby in all things validated, regardless of whether or not any such bonds so voted were submitted in only one proposition and regardless of the language appearing on the ballot concerning any proposition so submitted. Said bonds may be issued and delivered by the Commissioners Court for the purpose or purposes so voted, may mature serially or otherwise and may contain such option or options of redemption or no option of redemption, as may be

determined by the Commissioners Court of the county. The issuance of such bonds and the levy and collection of taxes for the payment of principal and interest thereon shall otherwise be in accordance with the provisions of Chapters 1 and 2, Title 22, Revised Civil Statutes of Texas, 1925, as amended, and when so issued shall constitute valid and enforceable obligations of the issuer in accordance with the terms and provisions thereof.

Sec. 2. The provisions of this Act shall not apply to any such proceedings the validity of which has been or is being questioned in litigation pending in any court of competent jurisdiction on the effective date of this Act if such litigation is ultimately determined against the validity of the same. Acts 1962, 57th Leg., 3rd C.S., p. 15, ch. 5.

Emergency. Effective Jan. 30, 1962.

Bond issues, general provisions and regulations, see art. 701 et seq. County finances, see art. 1607.

CHAPTER THREE—PUBLIC ROAD BONDS

1. COUNTY AND DISTRICT BONDS

Art. 752b. Bond elections

Counties of over 900,000, bond issue for county workhouses and county farms, see art. 2370c.

CHAPTER FOUR—VIADUCTS, BRIDGES, ETC.

Art. 795a. Bond issue to refund outstanding causeway revenue bonds [New].

Art. 795a. Bond issue to refund outstanding causeway revenue bonds

Authority to issue bonds; ad valorem taxes

Section 1. That the Commissioners Court of any county in the State of Texas which has heretofore or shall hereafter issue bonds, to construct, acquire, improve, operate or maintain a causeway, and the interest on such bonds and the principal thereof are payable from revenues derived from the operation of such causeway, is hereby authorized to issue bonds for the purpose of refunding such outstanding revenue bonds and to levy and collect ad valorem taxes to pay the interest on such refunding bonds and to provide a sinking fund for the redemption thereof.

Aggregate principal amount

Sec. 2. That the aggregate principal amount of bonds issued from time to time pursuant to this Act and at any time outstanding, shall not exceed a principal amount which will permit the interest on and the principal of such bonds to be paid from a tax levied within the eighty cent (80¢) limitation provided by Article 8, Section 9 of the Texas Constitution, and provided that the Commissioners Court shall not authorize the issuance of bonds under authority of Section 1 hereof unless authorized at an election at which only the qualified voters who reside in the county and who own taxable property therein and who have duly rendered the same for taxation shall be allowed to vote, and unless the majority of the votes cast thereat are in favor of issuing the bonds. Said election shall be con-

ducted in accordance with the terms of Title 22 of Vernon's Revised Civil Statutes of Texas, as amended.

**Detail of bonds; manner of sale; redemption; exchange;
use of accumulated monies**

Sec. 3. That the Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof, providing that the bonds shall not mature later than forty (40) years after their date, and no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per cent (6%) per annum, computed with relationship to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding from such computations the amount of any premium to be paid on redemption of any bonds prior to maturity. The bonds may be 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 Instrument Law of Texas. Provision may be made for registration of such bonds as to principal only. The bonds issued hereunder may be exchanged for the revenue bonds being refunded or the proceeds of the bonds issued hereunder may be used to pay the principal amount of the bonds being refunded and any premium required by the terms thereof to be payable on redemption prior to maturity. Any monies accumulated in the funds established by the resolution or order authorizing the issuance of the bonds to be refunded may be used by the Commissioners Court, upon cancellation of such bonds to be refunded, to pay accrued interest on and the principal of any such bonds to be refunded, to pay any premium required to be paid thereon in event of redemption prior to maturity, to pay into the road and bridge fund of the county, or may be used for any other lawful purpose.

Taxes to pay interest; sinking fund for redemption of bonds

Sec. 4. That any county issuing bonds pursuant to this Act shall continue to levy ad valorem taxes to pay the interest on such bonds and to provide a sinking fund for the redemption thereof even though the facilities constructed with the proceeds of the bonds to be refunded by the bonds issued pursuant to this Act shall become a part of the State Highway System.

Refunds; terms and conditions

Sec. 5. Any bonds issued pursuant to this Act may be refunded by the Commissioners Court upon such terms and conditions, including interest rates and maturity, as may be determined by the Commissioners Court, provided that such terms and conditions shall not be inconsistent with the application of the constitutional provision to which reference is herein made. Any such bonds may be so refunded by issuance of refunding bonds, either to be exchanged for the bonds being refunded, or to be sold, with the proceeds thereof to be used for the redemption and cancellation of the bonds being refunded.

Legal and authorized investments

Sec. 6. All bonds, whether original or refunding, heretofore or hereafter issued pursuant to this Act, shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking

funds of cities, towns, villages, counties, school districts and all other political corporations or subdivisions of the State of Texas; and all said bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts and all other political corporations or subdivisions of the State of Texas; and all said bonds shall be lawful and sufficient security for said deposits to the extent of their par value when accompanied by all unmatured coupons appurtenant thereto.

Approval of attorney general; registration

Sec. 7. Prior to the delivery thereof to the purchasers, all bonds authorized to be issued hereunder and the records related to the issuance shall be submitted to the Attorney General of Texas for his examination, and if he finds they have been issued in accordance with the Constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and upon such approval and registration they shall be uncontestable. Acts 1963, 58th Leg., p. 441, ch. 156.

Emergency. Effective May 14, 1963.

Causeway corporations, see art. 1473.

Maximum county, city and town levies, see Const. art. 8, § 9.

Gulf coast counties, bonds for construction of causeways, see arts. 6795b, 6795b-1.

CHAPTER SEVEN—MUNICIPAL BONDS

Art.

835o. Home rule cities; street and drainage improvements; fire stations; validation of bonds [New].

Art. 823. May issue bonds

Park facilities, construction in cities over 650,000 population, see art. 6081j.

Art. 835o. Home rule cities; street and drainage improvements; fire stations; validation of bonds

Section 1. All bonds heretofore authorized by any Home Rule City in the State of Texas, for the purpose of providing street and drainage improvements, or for the purpose of constructing new fire stations, and any and all proceedings pertaining to the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of Charter or statutory authority of such City, or the governing body thereof to authorize and issue such bonds, and notwithstanding the fact that the election might not have been ordered and held in all respects in accordance with the provisions of the Charter or Statutes, and the issuance, sale and delivery of such bonds are hereby authorized and approved irrespective of the fact that any such City may be engaged in any suit or litigation questioning the power of such City to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to function under such Home Rule Charter may be contested or under attack in such suit or litigation; and such bonds, when approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, and sold and delivered, in accordance with law, shall be binding, legal, valid and enforceable obligations, and the bonds shall be incontestable.

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

Sec. 2. This Act shall apply only to such bonds as were authorized at an election or elections wherein a majority of the voting qualified property taxpaying voters who had duly rendered their property for taxation voted in favor of the issuance thereof.

Sec. 3. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which is contested or under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity of the proceedings or bonds, except insofar as such proceedings or bonds might be affected by any such City being engaged in any suit or litigation questioning the power of such City, or the governing body thereof, to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to so function under such Home Rule Charter may be contested or under attack.

Sec. 4. This Act shall be strictly construed to achieve the purposes hereof, and no action by any City hereunder shall be validated by this Act except for the specific and limited purposes enumerated herein. Acts 1962, 57th Leg., 3rd C.S., p. 59, ch. 21, §§ 1-4.

Emergency. Effective Feb. 7, 1962.

Home rule cities generally, see art. 1165 et seq.

Home rule cities, validation of bonds, see art. 709b.

Refunding bonds of home rule cities validated, see art. 835e-1.

CHAPTER EIGHT—SINKING FUNDS—INVESTMENTS, ETC.

Art. 838. Repealed. Acts 1963, 58th Leg., p. 1102, ch. 428, § 1. Eff. 90 days after May 24, 1963, date of adjournment

Art. 840. Division of funds; penalties

Any treasurer who shall divert said fund or apply said fund for any other purpose than as permitted by the preceding Article shall be subject to a penalty of not less than Five Hundred Dollars (\$500.) nor more than One Thousand Dollars (\$1,000.), to be recovered by the state, and in addition thereto, shall be liable for the amount of such fund so diverted. As amended Acts 1963, 58th Leg., p. 1102, ch. 428, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 23—BRANDS AND TRADE MARKS

Art. 843. Reusable containers bearing trade- mark; reuse; removal of name or mark. [New].	Art. 851—C. Registration and protection of trademarks and service marks [New].
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Art. 843. Reusable containers bearing trademark; reuse; removal of name or mark

Any normally reusable keg, cask, barrel, box, syphon, bottle or other container intended for re-use and bearing a trademark, name, or other designation of ownership shall, in any action founded upon ownership of any such container, be prima facie considered to be the property of the owner of such mark, name or other designation, or his licensee. No person, corporate or otherwise, other than the proprietor of any such container, or one acting by his written consent, shall fill for sale or for the purpose of traffic, any such container, or deface, erase, obliterate, cover up, remove or cancel any such name or marks, or refuse to return such container to the owner upon demand. Acts 1962, 57th Leg., 3rd C.S., p. 62, ch. 24, § 18.

Effective 90 days after Feb. 1, 1962, date of adjournment.

Registration and protection of trademarks and service marks, see art. 851—C.

Former art. 843, relating to use of trade mark of another, was repealed by Acts 1962, 57th Leg., 3rd C.S., p. 62, ch. 24, § 18.

Similar provisions, see Vernon's Ann. P.C. art. 1058.

Arts. 844 to 851—B. Repealed. Acts 1962, 57th Leg., 3rd C.S., p. 62, ch. 24, § 19

See, now, art. 851—C.
Effect on pending litigation, etc., see art. 851—C, § 19.

Art. 851—C. Registration and protection of trademarks and service marks

Definitions

Section 1. For the purposes of this Act, unless otherwise required by the context:

(a) "Mark" includes any trademark or service mark whether registered or not. "Trademark" includes any word, name, symbol, or device or any combination thereof adopted and used by a person to identify his goods and distinguish them from those manufactured or sold by others in this state. "Service mark" means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others and includes without limitation the marks, names, symbols, titles, designations, slogans, character names, and distinctive features of radio or other advertising used in this state.

(b) "Person" means any individual, firm, partnership, corporation, association, union or other organization.

(c) "Applicant" embraces the person filing an application for registration of a mark under this Act or under Acts in force at the time this Act went into effect and includes his legal representatives, successors, assigns and predecessors in title to the mark sought to be registered by said person.

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

(d) "Registrant" embraces the person to whom a registration has been issued under this Act or under Acts in force at the time this Act went into effect and includes his legal representatives, successors, assigns, and predecessors in title to the registration.

(e) A mark shall be deemed to be used in this state (1) on goods when it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto and the goods are sold, displayed for sale, or otherwise publicly distributed within this state, and (2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in this state.

(f) "Trade name" includes individual names and surnames, firm names, and lawfully adopted names and titles used by persons to identify their business, vocations, or occupations.

Marks registrable; exceptions

Sec. 2. A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall be registrable unless it:

(a) consists of or comprises immoral, deceptive or scandalous matter; or

(b) consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute; or

(c) consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof; or

(d) consists of or comprises the name, signature or portrait of any living individual, except with his written consent; or

(e) consists of a mark which, (1) when applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them, or (2) when applied to the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them, or (3) is primarily merely a surname; provided, however, that nothing in this subsection (e) shall prevent the registration of a mark used in this state by the applicant which has become distinctive of the applicant's goods or services. The Secretary of State may accept as evidence that the mark has become distinctive, as applied to the applicant's goods or services, proof of substantially exclusive and continuous use thereof as a mark by the applicant in this state for the five (5) years next preceding the date of the filing of the application for registration; or

(f) consists of or comprises a mark which so resembles a mark registered in this state by another and not abandoned, as to be likely, when applied to or used in connection with the goods or services of the applicant to cause confusion or mistake or to deceive.

Requirements for application for registration; contents; fee

Sec. 3. Subject to the limitations set forth in this Act any person who adopts and uses a mark in this state may file in the office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark, setting forth, but not limited to, the following:

(a) The name and business address of the person applying for such registration; and if a corporation, the state of incorporation;

(b) An appointment of the Secretary of State as agent for service of process in any action relating only to the registration which may be issued, if the applicant be, or shall become, a nonresident individual, partnership, or association, or foreign corporation not licensed to do business in this state, or cannot be found in this state;

(c) The goods or services in connection with which the mark is being used, and the mode or manner in which the mark is being used in connection with such goods or services, and the class in which such goods or services are believed to belong;

(d) The date when applicant first used the mark in this state and the date when applicant first used the mark anywhere;

(e) A statement that the applicant believes himself to be the owner of the mark and that no other person to the best of his knowledge and belief has the right in this state to use such mark either in the identical form thereof, or in such near resemblance thereto, as to be likely, when applied to the goods or services of such person, to cause confusion, or to cause mistake, or to deceive.

The application shall be signed and verified by the applicant or by an agent of the applicant.

The application shall be accompanied by a specimen or facsimile of such mark as actually used.

The application for registration shall be accompanied by a filing fee of Ten Dollars (\$10) payable to the Secretary of State.

**Delivery to secretary of state; duties of secretary of state;
certificates of registration**

Sec. 4. Duplicate originals of the application including the specimen or facsimile shall be delivered to the Secretary of State as a part of the filing thereof. If the application conforms to law the Secretary of State shall, when all fees have been paid as required by law:

(1) Endorse on each such duplicate original the word "Filed" and the month, day, and the year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of registration evidencing registration on said date of filing, to which he shall affix the other duplicate original.

(4) Deliver said certificate of registration together with the affixed duplicate original of the application to the applicant or his representative.

A certificate of registration issued by the Secretary of State under the provisions of this Act, or a copy thereof duly certified by the Secretary of State, shall be admissible in evidence as prima facie proof of (1) the validity of the registration, (2) registrant's ownership of the mark, and (3) registrant's exclusive right to use the mark throughout the State of Texas in commerce in connection with the goods or services specified in the certificate, subject to any conditions and limitations stated therein.

Constructive notice

Sec. 5. Registration of a mark under this Act shall be constructive notice throughout the State of Texas of the registrant's claim of ownership thereof throughout Texas.

Judicial review

Sec. 6. All final decisions of the Secretary of State hereunder shall be deemed to be administrative decisions and subject to judicial review in the State District Court of Travis County. In the trial of all appeals from such administrative decisions prosecuted in the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstance shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act. The Legislature hereby specifically declares that the provisions of this Section shall not be severable from the balance of this Act, and further specifically declares that this Act would not have been passed without the inclusion of this Section. If this Section, or any part thereof, is for any reason ever held by any court to be invalid, unconstitutional or inoperative in any way, such holding shall apply to this entire Act, and in such event this entire Act shall be null, void and of no force and effect.

Term of registration of mark; renewal; notice of necessity of renewal

Sec. 7. Registration of a mark hereunder shall be effective for a term of ten (10) years from the date of registration, and, upon application filed within six (6) months prior to the expiration of such term, on a form to be furnished by the Secretary of State, the registration may be renewed for a like term. Said application shall be accompanied by an affidavit by the registrant stating that the mark is still in use in this state or showing that any non-use in this state is due to special circumstances which excuse such non-use and is not due to any intention to abandon the mark in this state. A renewal fee of Ten Dollars (\$10), payable to the Secretary of State, shall accompany the application for renewal of the registration.

A registration may be renewed for successive periods of ten (10) years in like manner.

Any registration in force on the date on which this Act shall become effective shall expire ten (10) years from the date of the registration thereof or two (2) years after the effective date of this Act, whichever is later, and may be re-registered by filing an original application with the Secretary of State as aforementioned on a form furnished by him and by paying the aforementioned original application filing fee therefor within six (6) months prior to the expiration of the registration.

The Secretary of State shall notify registrants of marks under this and all previous Acts of the necessity of renewal or re-registration by

writing to the last known address of the registrants within the period beginning twelve (12) months and ending six (6) months next preceding the expiration of the registration. Failure of the Secretary of State to so notify registrants and failure of any registrant to receive any such notice shall not extend the term of any such registration or excuse failure to renew or re-register.

Assignment of mark; recordation; fee; submission of duplicate copy

Sec. 8. Any mark and its registration hereunder shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be recorded with the Secretary of State upon the payment of a fee of Three Dollars (\$3) payable to the Secretary of State who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under this Act shall be void as against any subsequent purchaser for valuable consideration without notice unless it is recorded with the Secretary of State within three (3) months after the date thereof or prior to such subsequent purchase.

A duplicate copy (which may be either a duplicate original or a clear and readable positive photostatic copy of the original on durable paper) of any assignment to be recorded, shall be submitted to the Secretary of State together with an original thereof. If the assignment recordation fee has been paid, then the Secretary of State shall:

- (1) Endorse on each of such original and duplicate the words "Filed for record in the office of the Secretary of State, State of Texas," and the month, day and year of the filing thereof;
- (2) File the duplicate of said assignment in his office; and
- (3) Return the original so endorsed to the assignee or his representatives.

Record of marks registered or renewed

Sec. 9. The Secretary of State shall keep for public examination a record of all marks registered or renewed under this Act and other records of all instruments recorded in accordance with the provisions of Section 8.

Cancellation of registration of mark

Sec. 10. The Secretary of State shall cancel from the register:

- (1) After two years from the effective date of this Act, all registrations under prior Acts which are more than ten (10) years old and not re-registered in accordance with this Act;
- (2) Any registration concerning which the Secretary of State shall receive a voluntary request for cancellation thereof from the owner of the registration as evidenced by the registration and any assignment thereof recorded in the office of the Secretary of State;
- (3) All registrations granted under this Act and not renewed in accordance with the provisions hereof;
- (4) Any registration concerning which a district court or court appellate thereto shall render a judgment from which no appeal has or can be taken, finding:
 - (a) that the registered mark has been abandoned;
 - (b) that the registrant is not the owner of the mark;
 - (c) that the registration was granted contrary to the provisions of this Act;
 - (d) that the registration was obtained fraudulently;

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

(e) that the registered mark has become incapable of serving as a mark;

(5) Any registration, the cancellation of which has been ordered on any ground by a judgment of a district court or courts appellate thereto, from which no appeal has or can be taken.

Action to cancel registration of mark

Sec. 11. Any person who believes he is or will be damaged by the registration of a mark under this Act may bring an action to cancel such registration. Such action may be brought in any district court of the State of Texas having venue thereof:

(1) When the agent appointed to receive process is the Secretary of State, the Secretary of State shall forward notice of such action by registered mail to the registrant at his last address of record.

(2) Notice of any such action shall be transmitted by the clerk of the court in which the action is brought to the Secretary of State who shall place such notice in the file of such registration with proper notations and endorsements.

(3) The losing party, in a case wherein it is found that he should have known his position was without merit, may in the discretion of the court have taxed against him as part of the costs, the reasonable attorneys' fees of the prevailing party.

(4) The clerk of the court decreeing the cancellation or making of any of the findings specified in Section 10(4) hereof shall, when such decree becomes final, transmit a certified copy of the judgment to the Secretary of State.

Classification of goods and services

Sec. 12. The following general classes of goods and services are established for convenience of administration of this Act but not to limit or extend the applicant's or registrant's rights. A single application for registration of a mark may include any or all goods or services upon which the mark is actually being used and which are comprised in a single class. In no event shall a single application include goods or services upon which the mark is being used and which fall within different classes. The Secretary of State is authorized to amend the classification of goods and services to conform with the classification established and as may be amended by the U. S. Patent Office.

CLASSIFICATION OF GOODS

Class	Title
1	Raw or partly prepared materials
2	Receptacles
3	Baggage, animal equipments, portfolios, and pocketbooks
4	Abrasives and polishing materials
5	Adhesives
6	Chemicals and chemical compositions
7	Cordage
8	Smokers' articles, not including tobacco products
9	Explosives, firearms, equipments, and projectiles
10	Fertilizers
11	Inks and inking materials
12	Construction materials
13	Hardware and plumbing and steam-fitting supplies
14	Metals and metal castings and forgings
15	Oils and greases

Class.	Title
16	Protective and decorative coatings
17	Tobacco products
18	Medicines and pharmaceutical preparations
19	Vehicles
20	Linoleum and oiled cloth
21	Electrical apparatus, machines and supplies
22	Games, toys and sporting goods
23	Cutlery, machinery, and tools and parts thereof
24	Laundry appliances and machines
25	Locks and safes
26	Measuring and scientific appliances
27	Horological instruments
28	Jewelry and precious-metal ware
29	Brooms, brushes, and dusters
30	Crockery, earthenware, and porcelain
31	Filters and refrigerators
32	Furniture and upholstery
33	Glassware
34	Heating, lighting and ventilating apparatus
35	Belting, hose, machinery packing, and non-metallic tires
36	Musical instruments and supplies
37	Paper and stationery
38	Prints and publications
39	Clothing
40	Fancy goods, furnishings, and notions
41	Canes, parasols, and umbrellas
42	Knitted, netted and textile fabrics and substitutes therefor
43	Thread and yarn
44	Dental, medical and surgical appliances
45	Soft drinks and carbonated waters
46	Foods and ingredients of foods
47	Wines
48	Malt beverages and liquors
49	Distilled alcoholic liquors
50	Merchandise not otherwise classified
51	Cosmetics and toilet preparations
52	Detergents and soaps

Classification of services

100	Miscellaneous
101	Advertising and business
102	Insurance and financial
103	Construction and repair
104	Communication
105	Transportation and storage
106	Material treatment
107	Education and entertainment

Obtaining registration by false or fraudulent statements; civil action

Sec. 13. Any person who shall for himself, or on behalf of any other person, procure the filing of any application or the registration of any mark in the office of the Secretary of State under the provisions hereof, by knowingly making any false or fraudulent representation or declaration, orally or in writing, or by any other fraudulent means, shall be liable, in a civil action brought in any district court having venue by

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

any person injured thereby, to pay any damages sustained by such injured person in consequence of the use of such mark, and the costs of such action, including attorney's fees, and the court shall order cancellation of the registration of such mark.

Preservation of common law rights; livestock brands or marks

Sec. 14. Nothing herein shall adversely affect common law rights acquired in a mark prior to registration thereof hereunder. However, during the effective registration hereunder of a mark, no common law rights may be acquired as against the registrant thereof, unless said registrant shall have abandoned the mark, and nothing in this Act shall apply to the registration or use of livestock brands or marks.

Wrongful acts against owner of registered mark; immunity of advertising media

Sec. 15. Subject to the provisions of Section 14 hereof, any person shall be liable in a civil action by the owner of a registered mark for any or all of the remedies provided in Section 16 hereof, if such person:

(a) without the consent of the registrant, uses anywhere in the State of Texas, any reproduction, counterfeit, copy or colorable imitation of a mark registered under this Act, in connection with the sale, offering for sale or advertising of any goods or services in connection with which such use is likely to deceive or to cause confusion or mistakes as to the source or origin of such goods or services;

(b) without the consent of registrant, reproduces, counterfeits, copies or colorably imitates any such registered mark and applies such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements, intended to be used upon or in conjunction with the sale or other distribution in this state of such goods or services. Provided, however, that no person engaged in business as the owner or operator of a radio or television station or as the owner or publisher of a newspaper, magazine, telephone or other directory or publication shall be liable hereunder for, or subject to, any of the remedies provided in Section 16 hereof for the use of any mark furnished to such person by one of its advertisers or customers.

Remedies for wrongful acts

Sec. 16. A registrant under this Act may proceed by suit in any District Court having venue to enjoin any act for which liability may be imposed under Section 15 hereof, and any such District Court shall grant injunctions to restrain such acts, and may require the defendant to pay to such registrant all damages suffered by reason of such acts from and after the date two years prior to the date of filing of the suit; any such court may also order that any reproductions, counterfeits, copies or colorable imitations described in Section 15 hereof, in the possession or under the control of any defendant in such suit, be delivered to any officer of the court, or to the complainant, to be destroyed; provided, however, that the owner of any infringed mark may not recover damages from an infringer for infringements occurring during a period of time when the infringer did not have actual knowledge of the owner's mark.

Sec. 17. [Amended Vernon's Ann.P.C. art. 1058]

Sec. 18. [Repealed and enacted a new art. 843]

Effect on pending litigation; repealer

Sec. 19. This Act shall be in force and take effect upon its passage, but shall not affect any suit, proceeding or appeal then pending. Subject to the terms of Section 10 hereof, Articles 844 through 851—B inclusive of the Revised Statutes of Texas, 1925, and Articles 1061 through 1062, inclusive, and Article 1066 of the Penal Code of Texas, Revised 1925, and parts of any other Acts inconsistent herewith are hereby repealed on the effective date of this Act. Provided that as to any suit, proceeding or appeal, and for that purpose only, pending at the time this Act takes effect such repeal or substitution shall be deemed not to be effective until final determination of said pending suit, proceeding or appeal. Acts 1962, 57th Leg., 3rd C.S., p. 62, ch. 24, §§ 1-16, 19.

Effective 90 days after Feb. 1, 1962, date of adjournment.

Offenses against labels and trade marks, see Vernon's Ann.P.C. art. 1058 et seq.

Reusable containers bearing trademark, reuse and removal of name or mark, see art. 843 and Vernon's Ann.P.C. art. 1058.

Rules and Regulations. Copies of the Rules and Regulations for Texas Trade-mark registration and pertinent Forms are available through the office of Secretary of State, Austin, Texas.

TITLE 24—BUILDING—SAVINGS AND LOAN ASSOCIATIONS

Art.
852a. Savings and Loan Act [New].

Exemption of persons doing business as building and loan associations from provisions of the Texas Regulatory Loan Act, see art. 6165b, § 6.

Disposition of repealed articles and derivation of new article relating to savings and loan associations, see Tables at end of article 852a.

Art. 852a. Savings and Loan Act

CHAPTER ONE. SHORT TITLE, FORM, DEFINITIONS

Short title

Section 1.01. This Act shall be known and may be cited as the "Texas Savings and Loan Act."

Library references

Building and Loan Associations ↻2.
C.J.S. Building and Loan Associations
§ 4.

Form

Sec. 1.02. This Act has been organized and divided in the following manner:

- (1) The Act is divided into Chapters, containing groups of related Articles. Chapters are numbered consecutively with cardinal numbers.
- (2) Chapters are divided into Sections, numbered consecutively with Arabic numerals.
- (3) Sections are divided into Subsections. The Subsections within each Section are numbered consecutively with Arabic numerals enclosed in parenthesis.

Definitions

Sec. 1.03. As used in this Act the following terms, unless otherwise clearly indicated by the context, have the meanings specified below:

- (1) "Association" shall mean a savings and loan association subject to the provisions of this Act.
- (2) "Savings and Loan Association" shall mean an association whose primary purpose is to promote thrift and home financing and whose principal activity is the lending to its members of money accumulated in savings accounts of its members on the security of first liens on homes and other improved real estate.
- (3) "Loss Reserves" shall mean the aggregate amount of the reserves allocated by an association for the sole purpose of absorbing losses.
- (4) "Savings Liability" shall mean the aggregate amount of the withdrawal value of the savings accounts of the members of an association at any particular time as shown by the books of the association.

(5) "Savings Account" shall mean that part of the savings liability of an association which is credited to a member by reason of the placement of funds in the association.

(6) "Withdrawal Value of a Savings Account" shall mean the credit balance of a savings account at any particular time as shown by the books of an association.

(7) "The Commissioner" shall mean the Savings and Loan Commissioner appointed under the provisions of House Bill No. 91, Chapter 198, Acts of the Fifty-seventh Legislature, Regular Session, 1961,¹ as the same may be hereafter amended from time to time.

¹ Article 342—205.

(8) "Surplus" shall mean the aggregate amount of the undistributed earnings of an association held as undivided profits or unallocated reserves for general corporate purposes and any paid-in surplus held by an association.

(9) "Federal Association" shall mean a savings and loan association incorporated pursuant to the Home Owner's Loan Act of 1933 as now or hereafter amended,² whose principal business office is located within the territorial limits of this State.

² 12 U.S.C.A. § 1461 et seq.

(10) "Member" shall mean a person holding a savings account in an association, or owning one or more shares of its Permanent Reserve Fund Stock, or borrowing from or assuming or obligated upon a loan in which an association has an interest, or owning property which secures a loan in which an association has an interest.

(11) "Dividends on Saving Accounts" shall mean that part of the net income of an association which is declared payable on savings accounts from time to time by the Board of Directors, and is the cost of savings money to the association.

Federal savings and loan association, definition, see art. 342—102.

Savings and loan commissioner, powers and duties, see art. 342—205.

Effect of headings, etc.

Sec. 1.04. The division of this Act into Chapters and Sections and the use of captions in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Act.

CHAPTER TWO. FORMATION OF ASSOCIATIONS

Application for charter

Sec. 2.01. Application for a charter for a savings and loan association may be made by five (5) or more citizens of this State (hereinafter referred to as incorporators) by tendering to the Commissioner along with the proper filing fee, an application consisting of the following:

(1) Two (2) copies of Articles of incorporation for the proposed association stating (i) the name of the association; (ii) the site of the principal office and (iii) the names and addresses of the initial directors.

(2) A statement as to (i) the amount, if any, of Permanent Reserve Fund Stock which has been subscribed and paid for at the time of filing, (ii) the names and addresses of such subscribers and the amount subscribed by each, (iii) the amount of savings liability, if any, with which the association will commence business, (iv) the amount of paid-in surplus or expense fund with which the association will commence business.

(3) Two (2) copies of the bylaws under which the association proposes to operate.

(4) Statements, exhibits, maps and other data sufficiently detailed and comprehensive as to enable the Commissioner to pass upon the matters set forth in Section 2.08(2), (3) and (4) of this Act and such other information in regard to the proposed association and its operation as may be required by duly promulgated rules and regulations of the Commissioner and the Building and Loan Section of the Finance Commission of Texas.

The Articles of incorporation and all statements of fact tendered to the Commissioner in connection with an application for charter shall be subscribed and sworn to under the sanction of an oath, or such affirmation as is by law equivalent to an oath, made before an officer authorized to administer oaths.

Permanent Reserve Fund Stock

Sec. 2.02. The charter of an association may provide for the issuance of Permanent Reserve Fund Stock. No other form or type of stock or shares shall be issued. Such Permanent Reserve Fund Stock, when issued, may not be retired or withdrawn except as hereinafter provided, until after all liabilities of the association shall have been satisfied in full, including the withdrawal value of all savings accounts. Such stock must be fully paid for in cash in advance of issuance and the association may not make any loans against the shares of such stock. Shares of such stock may have a par value of not less than One Dollar (\$1) nor more than One Hundred Dollars (\$100) each. An association authorized to issue such stock must have at all times issued and outstanding an amount thereof equal in par value to Twenty-five Thousand Dollars (\$25,000) or two and one half per cent (2½%) of its gross assets whichever is greater but no association shall be required to have more than Two Hundred and Fifty Thousand Dollars (\$250,000) of the par value of such stock outstanding. Associations whose savings accounts are insured by the Federal Savings and Loan Insurance Corporation may retire in whole or in part any such stock heretofore issued when such associations are authorized to do so by a majority vote at any annual meeting of its members, or any special meeting of members called for such purpose; provided, that the basis of such retirement shall have been first approved by the Commissioner and consent to such retirement upon the part of the Federal Savings and Loan Insurance Corporation has been filed in writing with the Commissioner.

Banks, reserves, see art. 342—606.

Stock requirements for proposed Permanent Reserve Fund Stock associations

Sec. 2.03. Incorporators of proposed associations with authority to issue Permanent Reserve Fund Stock, as a prerequisite to the approval of an application for a charter shall be required to have subscribed and paid for in cash to the credit of the proposed association an aggregate amount of Permanent Reserve Fund Stock as the Commissioner shall specify within the limits set for such stock in the preceding Section. Such stock shall be issued within thirty (30) days from the date of incorporation.

Paid-in surplus requirements for Permanent Reserve Fund Stock associations

Sec. 2.04. As a prerequisite to approval of any application for a proposed association with authority to issue Permanent Reserve Fund Stock the Commissioner may require in addition to the amount paid in for such stock a paid-in surplus up to but not in excess of the aggregate amount of the Permanent Reserve Fund Stock required under the preceding Section.

Such paid-in surplus may be used in lieu of earnings to pay organization and operating expenses, dividends on savings accounts and to meet any loss reserve requirements. If the application should not be approved or if the proposed association does not proceed to do business, the stock subscriptions for Permanent Reserve Fund Stock and paid-in surplus shall be returned pro-rata to the subscribers, less any lawful expenditures.

Banks, capital and surplus requirements,
see art. 342—303.

**Savings account requirements for proposed associations without
Permanent Reserve Fund Stock**

Sec. 2.05. As a prerequisite to the approval of an application for a charter of an association without Permanent Reserve Fund Stock the incorporators must show to the satisfaction of the Commissioner subscribed and paid-in savings accounts in the following aggregate amounts in relation to the population of the community in which the home office of the association is to be located: (a) in communities having not more than ten thousand (10,000) inhabitants, the minimum sum of Fifty Thousand Dollars (\$50,000); (b) in communities having more than ten thousand (10,000) but less than one hundred thousand (100,000) inhabitants, the minimum sum of One Hundred Thousand Dollars (\$100,000); (c) in communities having one hundred thousand (100,000) or more inhabitants, the minimum sum of Two Hundred Thousand Dollars (\$200,000); provided, that the Commissioner may, in his discretion, require a larger amount to be paid in. The population of the community shall be determined by the Commissioner based upon the latest Federal census.

**Expense fund requirements for proposed association without
Permanent Reserve Fund Stock**

Sec. 2.06. In addition to the savings account subscriptions required by the preceding Section the incorporators of an association without Permanent Reserve Fund Stock must show to the satisfaction of the Commissioner that an expense fund has been subscribed and paid into the credit of the proposed association equal to not less than fifty per cent (50%) of the minimum specified amount of required savings accounts set out in Section 2.05, from which expense fund the expense of organizing the association and its operating expenses in addition to such dividends as may be declared and paid or credited to its savings account holders may be paid until such time as its earnings are sufficient to pay same. The amounts so contributed to the expense fund shall not constitute a liability of the association except as hereinafter provided. Such contributions may be repaid pro-rata to the contributors from the net earnings of the association after provision for required loss reserve allocations and payment or credit of dividends declared on savings accounts. In case of the liquidation of an association before contributions to the expense fund have been repaid, any contributions to the expense fund remaining unexpended, after the payment of expenses of liquidation, all creditors, and the withdrawal value of all savings accounts shall be paid to the contributors pro-rata. The books of the association shall reflect such expense fund. Contributors to the expense fund shall be paid dividends on the amounts paid in by them and for such purpose such contributions shall in all respects be considered as savings accounts of the association.

Hearings on charter applications

Sec. 2.07. When a proper application for a charter has been filed, the Commissioner shall cause public notice of such application to be given and

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

give any interested party an opportunity to appear, present evidence and be heard for or against such application.

Approval of application for charter

Sec. 2.08. The Commissioner shall not approve any charter application unless he shall have affirmatively found from the data furnished with the application, the evidence adduced at such hearing and his official records that:

(1) the prerequisites, where applicable, set forth in Sections 2.02, 2.03, 2.04, 2.05, and 2.06 have been complied with and that the Articles of incorporation comply with all other provisions of this Act;

(2) the character, responsibility and general fitness of the persons named in the Articles of incorporation are such as to command confidence and warrant belief that the business of the proposed association will be honestly and efficiently conducted in accordance with the intent and purpose of this Act and that the proposed association will have qualified full-time management;

(3) there is a public need for the proposed association and the volume of business in the community in which the proposed association will conduct its business is such as to indicate profitable operation;

(4) the operation of the proposed association will not unduly harm any existing association.

If the Commissioner so finds, he shall state his findings in writing and issue under his official seal a certificate of incorporation and deliver a copy of the approved Articles of incorporation and bylaws to the incorporators and retain a copy thereof as a permanent file of his office, whereupon the proposed association shall be a corporate body with perpetual existence unless terminated by law and may exercise the powers of a savings and loan association as herein set forth.

Refusal of charter application

Sec. 2.09. If the Commissioner is unable to make the findings as required by the preceding Section, he shall endorse upon each copy of the proposed Articles of incorporation the word "refused" with the date of such endorsement and attach thereto a written statement of his grounds for such refusal. One copy of the proposed Articles and attached grounds of refusal shall be promptly mailed to the incorporators by certified mail.

Forfeiture of charter for failure to commence business

Sec. 2.10. Any association whose charter has been approved under this Act shall commence business within six (6) months after the date of such approval. If an association has not commenced business within such time, the incorporators may request a hearing before the Commissioner; and if good cause is shown for such failure, the Commissioner may grant a reasonable extension of the time for commencing business to give such association an opportunity to overcome the cause for the delay in commencing business. Failure to commence business as herein required shall constitute grounds for forfeiture of the association's charter at the suit of the Attorney General upon request of the Commissioner brought in the County where the association proposes to locate its principal office.

Amendment of charter and bylaws

Sec. 2.11. Any association may, by resolution adopted by a majority vote of its members at any annual meeting or any special meeting called for such purpose, amend its charter or bylaws in any manner not inconsistent with the provisions of this Act; provided, that before such amendments become effective they must be filed with and approved by the Commissioner.

Banks, amendment of articles of association, see art. 342—312.

Corporate name; exclusive use by associations

Sec. 2.12. The name of every association shall include either the words "Savings Association," or "Savings and Loan Association." These words shall be preceded by an appropriate descriptive word or words approved by the Commissioner. An ordinal number may not be used as a single descriptive word preceding the words "Savings Association," or "Savings and Loan Association," unless such words are followed by the name of the town, city or county in which the association has its home office. No certificate of incorporation of a proposed association having the same name as any other association authorized to do business in this State under this Act or a name so nearly resembling it as to be calculated to deceive shall be issued by the Commissioner, except to an association formed by the reincorporation, reorganization, or consolidation of other associations, or upon the sale of the property or franchise of an association. No person, firm, company, association, fiduciary, partnership or corporation, either domestic or foreign, unless authorized to do business in this State under the provisions of this Act shall do business under any name or title which indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an association or which is calculated to lead any person to believe that the business is that of an association. Upon application by the Commissioner or any association, a court of competent jurisdiction may issue an injunction to restrain any such entity from violating or continuing to violate any of the foregoing provisions of this Section.

Change of office or name

Sec. 2.13. No association shall, without the prior approval of the Commissioner (i) establish any office other than the principal office stated in its articles of incorporation, (ii) move any office of the association from its immediate vicinity or (iii) change its name. When his approval is applied for, the Commissioner shall give any person who might be affected an opportunity to be heard on the action proposed to be taken for which approval is sought.

Preference to local control

Sec. 2.14. In any instance where there is a conflict between an application for the approval of a charter for a new association and an application for the establishment of an additional office by an existing association both seeking to locate in the same community and the principal office of the existing association is located in a different county than such community, the Commissioner may give additional weight to the application having the greater degree of control vested in or held by residents of the particular community.

CHAPTER THREE. DIRECTORS, OFFICERS & MEMBERS**Board of directors**

Sec. 3.01. The business of the association shall be directed by a board of directors of not less than five (5) nor more than twenty-one (21) elected by a majority vote at each annual meeting of the members; provided, that associations authorized to issue Permanent Reserve Fund Stock by their bylaws may provide in such bylaws that all or at least a majority of the board of directors shall be elected from among the holders of such stock. The number of directors shall be fixed from time to time within the limits above prescribed by resolution adopted at any annual meeting of members, or any special meeting called for such purpose.

Banks, directors, see art. 342—404 et seq.

Organization meeting

Sec. 3.02. Within thirty (30) days after the corporate existence of an association shall begin, the initial board of directors shall hold an organization meeting and, pursuant to the provisions of this Act and the bylaws, shall elect officers and take such other action as is appropriate in connection with beginning the transaction of business by the association. The Commissioner upon good cause shown may extend by order the time within which the organization meeting shall be held.

Qualification of directors

Sec. 3.03. The bylaws of an association may prescribe other qualifications for directors, but no person shall be eligible to election as a director unless he is the owner in good faith and his own right on the books of the association either in the form of a savings account or Permanent Reserve Fund Stock or a combination of both having a value on such books of at least One Thousand Dollars (\$1,000) and which shall not be reduced by withdrawal or pledge for a loan by the association, so long as such person remains a director. Any director, who after his election as such, ceases to be the owner in his own right of the necessary qualifying interest shall cease to be a director; provided, that no action of the board of directors shall be invalidated through the participation of such director in such action; provided, further, that if a director becomes ineligible under the terms of this Section by reason of the exercise by the association of the right of redemption of savings accounts provided for in Section 6.16, he shall remain validly in office until the expiration of his term or until he otherwise becomes ineligible, whichever may occur first. Any vacancy among directors may be filled by a majority vote of the remaining directors, though less than a quorum, by electing a director to serve until the next annual meeting of members. In the event of a vacancy on the board of directors from any cause, the remaining directors shall have full power and authority to continue direction of the association until such vacancy is filled.

Officers

Sec. 3.04. The officers of an association shall consist of a president, one or more vice presidents, a secretary and such other officers as may be prescribed by the bylaws. Such officers shall be elected by majority vote of the board of directors. The president shall be a member of the board of directors.

Indemnity bonds of directors, officers and employees

Sec. 3.05. Every association shall maintain on file with the Commissioner an effective blanket indemnity bond with an adequate corporate surety protecting the association from loss by or through any fraud, dishonesty, forgery or alteration, larceny, theft, embezzlement, robbery, burglary, holdup, wrongful or unlawful abstraction, misappropriation, or any other dishonest or criminal action or omission by any officer or employee of such association and any director of such association when performing the duty of an officer or employee. Associations which employ collection agents, who for any reason are not covered by a bond as hereinabove required, shall provide for the bonding of each such agent in an amount equal to at least twice the average monthly collection of such agent. Such agents shall be required to make settlement with the association at least monthly. No bond coverage will be required of any agent which is a bank insured by the Federal Deposit Insurance Corporation or an institution insured by the Federal Savings and Loan Insurance Corporation. The amounts and form of such bonds and sufficiency of the surety thereon shall be approved by the board of directors and the Commissioner. All such bonds shall provide that a cancellation thereof either by the surety or the insured shall not become effective unless and until thirty (30) days' notice in writing first shall have been given to the Commissioner, unless he shall have approved such cancellation earlier.

Meetings of members; voting rights

Sec. 3.06. The annual meeting of the members of each association shall be held each year at the time fixed in the bylaws of the association. Special meetings may be called as provided in the bylaws. The members who shall be entitled to vote at any meeting of the members shall be those who are members of record at the end of the calendar month next preceding the date of the meeting, except those who have ceased to be members. The bylaws may provide the basis for computing the number of votes which a member shall be entitled to cast. In the absence of any bylaw provision to the contrary, in the determination of all questions requiring action by the members, each member shall be entitled to cast one (1) vote by virtue of his membership, plus an additional vote for each share or fraction thereof of the Permanent Reserve Fund Stock of the association, if any, owned by such member, and an additional vote for each One Hundred Dollars (\$100) or fraction thereof of the withdrawal value of savings accounts, if any, held by such member. A loan or a savings account shall create a single membership for voting purposes even though more than one person is obligated on such loan or has an interest in such savings account. Voting may be in person or by proxy. Every proxy shall be in writing and signed by the member or his duly authorized attorney-in-fact and, when filed with the secretary, shall, unless otherwise specified in the proxy, continue in force from year to year until a revocation in writing is duly delivered to the secretary or until superseded by subsequent proxies. The bylaws of each association shall specify the quorum requirements and other voting requirements for conducting business at membership meetings.

Access to books and records

Sec. 3.07. Every member shall have the right to inspect such books and records of an association as pertain to his loan, Permanent Reserve Fund Stock or savings account. Otherwise, the right of inspection and

examination of the books and records shall be limited to the Commissioner or his duly authorized representatives as provided in this Act, to persons duly authorized to act for the association and to any Federal instrumentality or agency authorized to inspect or examine the books and records of an association whose savings accounts are insured by the Federal Savings and Loan Insurance Corporation. The books and records pertaining to the accounts and loans of members shall be kept confidential by the Commissioner, his examiners and representatives, except where disclosure thereof shall be compelled by a court of competent jurisdiction, and no member or other person shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members except upon express action and authority of the board of directors. The books, records and files of an association shall not be admissible as evidence in any proceeding concerning the validity of any tax assessment or the collection of delinquent taxes, penalties and interest except where (i) the owner of an account is a proper party to the proceeding in which event the books, files and records pertaining to the account of such party shall be admissible or (ii) the association itself is a proper party to the proceeding in which event any book, file or record material to the proceeding shall be admissible.

CHAPTER FOUR. CORPORATE POWERS OF ASSOCIATIONS

General corporate powers

Sec. 4.01. Every association incorporated pursuant to or operating under the provisions of this Act shall have all the powers enumerated, authorized, and permitted by this Act and such other rights, privileges, and powers as may be incidental to or reasonably necessary for the accomplishment of the objects and purposes of the association.

Power to borrow

Sec. 4.02. No association shall have power to borrow more than an aggregate amount equal to twenty-five per cent (25%) of its savings on the date of borrowing, unless such loan in excess of such amount be first approved in writing by the Commissioner, or unless the association is a member of a Federal Home Loan Bank in which event the association shall have power to secure advances in such amounts and upon such terms as may be prescribed by such Federal Home Loan Bank from time to time.

Insurance of savings accounts

Sec. 4.03. Every association shall have the power and right to obtain and maintain insurance of its savings accounts by the Federal Savings and Loan Insurance Corporation. No association or corporation or foreign association or any other person shall advertise or represent or offer to accept any savings accounts in this State as insured or guaranteed accounts or as the savings accounts of an insured or guaranteed institution unless the same are insured by either the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

Fiscal agent

Sec. 4.04. Any association shall have power to act as fiscal agent of the United States, and, when so designated by the Secretary of the Treasury, it shall perform under such regulations as he may require,

and shall have power to act as agent for any instrumentality thereof, and as agent of this State or any governmental subdivision or instrumentality thereof.

Power to act under Self-Employed Retirement Act of 1962

Sec. 4.05. Any association and any Federal association (insofar as its charter and applicable Federal rules and regulations permit) may exercise all powers necessary to qualify as a trustee or custodian under the Federal Self-Employed Individuals Tax Retirement Act of 1962¹ or any amendments thereto and may invest any funds held in such capacities in the savings accounts of the institution if the trust or custodial retirement plan does not prohibit such investment.

¹ 26 U.S.C.A. § 401 et seq.

**CHAPTER FIVE. LOANS, INVESTMENTS,
OWNERSHIP OF REAL PROPERTY**

Original real estate loans

Sec. 5.01. Every association may make real estate loans to members secured by a mortgage, deed of trust or other instrument creating or constituting a first and prior lien on improved real estate and may make additional real estate loans secured by liens subsequent to its own first lien upon the same property. Additional security may also be taken by the association in connection with any such loan if deemed necessary and proper.

Condominium regime, loans on individual apartments, see art. 1301a, § 10.

Power to deal in real estate loans

Sec. 5.02. Every association may purchase real estate loans upon security of the same character against which such association may make an original loan and also may lend money on the security of such real estate loans.

Participation in real estate loans with others

Sec. 5.03. Subject to the requirements of any rules and regulations adopted under Section 5.04 hereof, every association may participate with other lenders in real estate loans of any type that such association could originate; may sell without recourse any real estate loan it holds or any participating interest therein; and may service any real estate loans sold by it.

Condominium regime, loans on individual apartments, see art. 1301a, § 10.

**Loans shall conform to rules and regulations of the Commissioner and
Building and Loan Section of the Finance Commission**

Sec. 5.04. The Commissioner and the Building and Loan Section of the Finance Commission, acting pursuant to the rule-making power delegated by House Bill No. 91, Chapter 198, Acts of the Fifty-seventh Legislature, Regular Session, 1961,¹ as the same may be amended shall, from time to time, promulgate such rules and regulations in respect to loans by associations operating under this law as may be reasonably necessary to assure that such loans are in keeping with sound lending practices and promote the purposes of this Act; provided that such rules and regulations shall

not prohibit an association from making any loan or investment that a Federal association could make under applicable Federal regulations.

¹ Article 342—205.

Requirements in regard to lending transactions

Sec. 5.05. In no event shall an association make a loan, purchase or sell a note or lien or enter into any participation transaction authorized in Sections 5.01, 5.02, and 5.03 in violation of any rule or regulation promulgated under Section 5.04 and no association shall:

(1) Make a loan on real estate, on which is located or on which from the proceeds of the loan will be located a home or homes or combination of home and business property, that exceeds eighty per cent (80%) of the appraised valuation of such real estate plus the value of any savings account in the association or any real estate loan pledged as additional collateral to secure such loan. For the purpose of this paragraph a home shall mean a dwelling for not more than four (4) families.

(2) Make a loan on real estate other than the type described in (1) above that exceeds sixty-five per cent (65%) of the appraised valuation of such real estate plus the value of any additional collateral of the type described in (1) above pledged to secure such loan.

(3) Make a loan on real estate for a term in excess of twenty-five (25) years.

(4) Make a real estate loan to an officer or director of the association unless such loan be first approved unanimously by its board of directors and such approval recorded in the minutes of the meeting of the board at which such loan was approved.

(5) Make a real estate loan or loans to any one borrower in the aggregate in excess of Fifty Thousand Dollars (\$50,000) or the sum of its loss reserves, surplus and Permanent Reserve Fund Stock, if any, or within such limits as may be fixed by appropriate rule and regulation promulgated under Section 5.04 hereof, whichever is the greater amount.

(6) Make a real estate loan unless an appraisal by an appraiser or committee of appraisers appointed by the board of directors first be made and filed in writing with the association as a part of its permanent files; reappraisals may be required by the Commissioner on real estate securing loans which are delinquent more than twelve (12) months at the expense of the association.

(7) Make a real estate loan which is not secured by a first and prior lien upon the property described in the mortgage, deed of trust or other instrument creating or constituting such lien, unless every prior lien thereon is owned by such association.

(8) Make a real estate loan unless the association is furnished with either a satisfactory abstract of title or a policy of title insurance issued by a title company authorized to insure titles in this State showing that the lien securing such loan meets the requirements of the preceding Subsection (7).

(9) Make a real estate loan unless the insurable improvements thereon are insured against loss by a fire and extended coverage policy or its equivalent issued by an insurance company authorized to do business in this State.

(10) Sell or transfer a prior lien held by the association while retaining a junior lien on the same security to secure an unsatisfied obligation

due the association unless such junior lien or liens were created in connection with a loan made under Sections 5.08 and 5.10 of this Act.

(11) Fail to promptly record in the proper county records every mortgage, deed of trust or other instrument creating, constituting or transferring any lien securing in whole or in part any real estate loan or the association's interest therein.

Banks, real estate loans, see art. 342—504.

Advances to pay taxes, etc., on security

Sec. 5.06. Associations may pay taxes, assessments, insurance premiums, and other similar charges for the protection of their interests in properties securing their real estate loans, which such advances may be carried on their books as an asset of the association and for which they may charge and collect interest, or such advances may be added to the unpaid balance of the loan as of the first day of the month in which such advances are made. All such advances shall constitute a valid lien against the real estate securing the loan for which they were made. Associations may require borrowers to pay monthly in advance, in addition to interest or interest and principal, the equivalent of one-twelfth (1/12) of the estimated annual taxes, assessments, insurance premiums, and other charges upon the real estate securing any loan, or any of such charges, so as to enable the association to pay same as they become due from the funds so received. The amount of such monthly charges may be increased or decreased as is necessary for the payment of same. Associations may carry such funds in trust in an account or may credit the same to the indebtedness and advance the money for taxes, insurance or other charges as they come due. Every association shall keep a record of the status of taxes, assessments, insurance premiums, and other charges on all real estate securing its loans and on all real and personal property owned by it.

Expenses, fees and charges for real estate loans

Sec. 5.07. Every association may require borrowing members to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting or renewing of real estate loans, which such charges may be collected by the association from the borrower and retained by it or paid to any persons, including any director, officer, or employee of the association rendering services in connection therewith, or paid directly by the borrower. In addition, associations may charge premiums for making such loans as well as penalties for prepayments or late payments; provided, that unless agreed in writing to the contrary, any prepayment of principal shall be applied on the final installment of the note or other obligation until fully paid, and thereafter on the installments in the inverse order of their maturity. The expenses, fees and charges authorized herein shall be in addition to interest authorized by law, and shall not be deemed to be a part of the interest collected or agreed to be paid on such loans within the meaning of any law of this State which limits the rate of interest which may be exacted in any transaction. No director, officer or employee of an association shall receive any fee or other compensation of any kind in connection with procuring any loan for an association, except for services actually rendered as above provided. A loan settlement statement shall be furnished by or on behalf of the association to each borrower upon the closing of every real estate loan, indicating in detail the expenses, fees and charges such borrower has paid or obligated himself to pay to the association or to any other person

in connection with such loan. A copy of such statement shall be retained in the records of the association.

Insured and guaranteed loans

Sec. 5.08. Any association may make, without regard to any loan limitations or restrictions otherwise imposed by this Act, any loan, secured or unsecured, which is insured or guaranteed in any manner and in any amount by the United States or any instrumentality thereof.

Loans on security of savings accounts

Sec. 5.09. Any association may make loans on the sole security value of the accounts owned or otherwise pledged for or by the borrower. No such loan shall be made when an association has applications for withdrawal which have been on file more than sixty (60) days and not reached for payment.

Property improvement loans and other loans to members

Sec. 5.10. Any association may make property improvement loans to home owners and other property owners for maintenance, repair, modernization, improvement and equipment of their properties, and may make other loans to members, on such terms and conditions as may be fixed by rules and regulations adopted under Section 5.04 hereof and which shall not be subject to the requirements of Section 5.05 of this Act.

Investment in securities

Sec. 5.11. Every association shall have power to invest in obligations of, or guaranteed as to principal and interest by, the United States or this State; in stock of a Federal Home Loan Bank of which it is eligible to be a member, and in any obligations or consolidated obligations of any Federal Home Loan Bank or Banks; in stock or obligations of the Federal Savings and Loan Insurance Corporation; in stock or obligations of a national mortgage association or any successor or successors thereto; in demand, time, or savings deposits with any bank or trust company the deposits of which are insured by the Federal Deposit Insurance Corporation; in stock or obligations of any corporation or agency of the United States or this State, or in deposits therewith to the extent that such corporation or agency assists in furthering or facilitating the association's purposes or power; in savings accounts of any association operating under the provisions of this Act and of any Federal association; in bonds, notes, or other evidences of indebtedness which are a general obligation of any city, town, village, county, school district, or other municipal corporation or political subdivision of this State; and in such other securities or obligations which the Commissioner may approve and place on a published list. An association investing in securities which are listed by the Commissioner shall not be required to dispose of such securities if at a later time the Commissioner shall remove same from list. No security owned by an association shall be carried on its books at more than the actual cost thereof unless a different treatment is permitted by the Commissioner in writing.

Acquisition of real property

Sec. 5.12. An association may own during the period of its corporate existence real property upon which any facility used in connection with the operation of such association is located. Every other parcel of real estate acquired by such association in the course of business shall be disposed of within five (5) years from the date acquired unless the Com-

missioner shall have extended the time in which such disposition shall be made. Any of such real property may be sold, conveyed, leased, improved, repaired, mortgaged or exchanged for other real estate when such is authorized by the board of directors.

Limitation on investment in office buildings

Sec. 5.13. An association may not invest more in office buildings than an amount equal to the aggregate dollar value of its loss reserves and surplus plus the par value of any outstanding Permanent Reserve Fund Stock as reflected by its books at the time of such investment unless the investment of a greater amount is authorized by the Commissioner in writing.

Valuation of real property on the books of an association

Sec. 5.14. No association shall carry any real estate on its books at a sum in excess of the total amount invested by such association on account of such real estate, including advances, costs and improvements, but excluding accrued but uncollected interest unless the Commissioner has specifically approved in writing a higher valuation. Any association selling real estate under a contract of sale may carry the amount due the association under the terms of such contract as an asset upon its books; provided, that at no time shall the contract be considered as having an asset value greater in amount than the sales price agreed upon in the contract, or greater in amount than the value at which such property so sold was permitted to be carried upon the books of the association.

Appraisals of real estate owned

Sec. 5.15. Every association shall appraise every parcel of real estate at the time of acquisition thereof and upon completion of any permanent improvements thereto. The report of such appraisal shall be in writing and kept in the records of the association.

Enlargement of powers

Sec. 5.16. Any provisions of this Act to the contrary notwithstanding, any association may make any loan or investment which such association could make were it incorporated and operating as a Federal association domiciled in this State.

CHAPTER SIX. SAVINGS ACCOUNTS

No limitation on savings accounts

Sec. 6.01. There shall be no limit on the number and value of savings accounts an association may accept unless limits are fixed by its board of directors.

Who may open a savings account

Sec. 6.02. Investments in savings accounts may be made only with cash and may be made by any person in his own right or in a trust or other fiduciary capacity and by any partnership, association, corporation, political subdivision, public and governmental unit or entity.

Savings contracts

Sec. 6.03. Each holder of a savings account shall execute a savings contract setting forth any special terms and provisions applicable to such account and the conditions upon which withdrawals may be made not inconsistent with provisions of this Act. Such savings contract shall be

held by the association as part of its records pertaining to such account. The savings contract in respect to savings accounts of political subdivisions and public and governmental units or entities shall provide that the holder of any such account shall not become a member of the association.

Evidence of ownership of an account

Sec. 6.04. As evidence of each savings account the association shall issue to the holder of such account either an account book or certificate.

Transfer of savings accounts

Sec. 6.05. Savings accounts shall be transferable only on the books of the association upon presentation of evidence of transfer satisfactory to the association accompanied by proper application for transfer by the transferee who shall accept such account subject to the terms and conditions of the savings contract, the bylaws of the association and the provisions of its charter. The association may treat the holder of record of a savings account as the owner thereof for all purposes without being affected by any notice to the contrary unless the association has acknowledged in writing that a pledge of such savings account has been made.

Lost or destroyed account books or certificates

Sec. 6.06. A new account book or certificate may be issued in the name of the holder of record at any time when requested by such holder or his legal representative upon proof satisfactory to the association that the original book or certificate has been lost or destroyed. The new account book or certificate shall expressly state that it is issued in lieu of the one lost or destroyed and the association shall in no way be liable thereafter on account of the original account book or certificate. The association may if it desires require indemnification against any loss that might result from the issuance of the new account book or certificate.

Savings accounts of married women and minors

Sec. 6.07. Any association operating under this law and any Federal savings and loan association doing business in this State may accept savings accounts from any married woman or minor as the sole and absolute owner of such savings account, and receive payments thereon by or for such owner, and pay withdrawals, accept pledges to the association, and act in any other manner with respect to such accounts on the order of such married woman or minor. Any payment or delivery of rights to a married woman or to any minor, or a receipt or acquittance signed by a married woman or by a minor who holds a savings account, shall be a valid and sufficient release and discharge of such institution for any payment so made or delivery of rights to such married woman or minor. In the case of a minor, the receipt, acquittance, pledge or other action required by the institution to be taken by the minor shall be binding upon such minor with like effect as if he were of full age and legal capacity; provided, if any parent or guardian of such minor should not desire the minor to have authority to pledge, hypothecate, control, transfer or make withdrawals from his savings account, such fact may be made known to the association in writing by such parent or guardian, in which event the right of the minor to pledge, hypothecate, control, transfer and make withdrawals from the account during the minority of such minor shall not be exercised by him except with the joinder of such parent or guardian. In the event of the death of such minor, the receipt or acquittance of either parent or guardian of such minor shall be valid and sufficient discharge

of such institution for any sum or sums not exceeding in the aggregate One Thousand Dollars (\$1,000).

Savings accounts in two or more names

Sec. 6.08. When a savings account is opened in any association operating under this law or Federal Savings and Loan Association doing business in this State in the names of two or more persons, whether minor or adult, in such form that the moneys in the account are payable to either of the survivor or survivors, then the moneys in such account may be paid to or on the order of any one of such persons during their lifetimes or to or on the order of any one of the survivors of them after the death of any one or more of them, and such institution shall have no further liability for the amounts so paid. The savings contract may provide that the signatures of more than one of such persons during their lifetimes or of more than one of the survivors after the death of any one of them may be required on any check, receipt or withdrawal order, in which case the institution shall pay the moneys in the account only in accordance with such instructions; provided, that any one of the parties to such an account may give written notice to the institution not to permit withdrawals in accordance with the terms of the savings contract, in which event an institution may refuse, without liability, to honor any check, receipt or withdrawal request on the account pending determination of the rights of the parties thereto.

Joint accounts by husband and wife

Sec. 6.09. A husband and wife shall have full power to enter into a savings contract involving a savings account consisting of funds which are community property of their marriage so as to create a joint tenancy with right of survivorship as to such account and any future additions or dividends made or credited thereto and, to the extent necessary to accomplish such result in law, such contract shall constitute a partition of such community property or reciprocal gifts from the respective spouses, if the same is in writing and subscribed to by such husband and wife even though not acknowledged by either of them.

Banks, joint deposits—minors and married women, see art. 342—710.

Pledge to association of joint savings accounts

Sec. 6.10. The pledge or hypothecation to any association or Federal association of all or part of a savings account issued in the names of two (2) or more persons signed by any person or persons upon whose signature or signatures withdrawals may be made from the account shall, unless the terms of the savings account provide specifically to the contrary, be a valid pledge and transfer to the institution of that part of the account pledged or hypothecated, and shall not operate to sever or terminate the joint and survivorship ownership of all or any part of the account.

Savings accounts of fiduciaries

Sec. 6.11. Any association operating under this law or any Federal savings and loan association doing business in this State may accept savings accounts in the name of any administrator, executor, custodian, guardian, trustee, or other fiduciary for a named beneficiary or beneficiaries, and any such fiduciary shall have power to vote as a member as if the membership were held absolutely, to open and make additions to, and to withdraw from any such account in whole or in part. Except when otherwise provided by law, the payment to any such fiduciary or a receipt or acquittance signed by any such fiduciary to whom any payment is made shall

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

be a valid and sufficient release and discharge of an institution for the payment so made. Whenever a person holding an account in a fiduciary capacity dies and no written notice or order of the probate court of the revocation or termination of the fiduciary relationship shall have been given to the institution and the institution has no written notice or order of the probate court of any other disposition of the beneficial estate, the withdrawal value of such account, and dividends thereon, or other rights relating thereto may, at the option of the institution, be paid or delivered, in whole or in part, to the beneficiary or beneficiaries, and such institution shall have no further liability therefor.

Trust accounts where trust instrument not disclosed

Sec. 6.12. Whenever an account shall be opened by any person, describing himself in opening such account as a trustee for another and no other or further notice of the existence and terms of a legal and valid trust than such description shall have been given in writing to such institution, withdrawals from such account may be made on the signature of the person so described as trustee, and in the event of the death of such person, the withdrawal value of such account, or any part thereof, together with dividends thereon, may be paid to the person for whom the account was thus stated to have been opened, and the institution shall have no further liability therefor.

Powers of attorney on savings accounts

Sec. 6.13. Any association operating under this law or any Federal association doing business in this State may continue to recognize the authority of an attorney-in-fact authorized in writing to manage or to make withdrawals either in whole or in part from the savings account of a member until it receives written notice or is on actual notice of the revocation of his authority. For the purposes of this Section, written notice of the death or adjudication of incompetency of such member shall constitute written notice of revocation of the authority of his attorney.

Savings accounts as legal investments

Sec. 6.14. Administrators, executors, guardians, trustees and other fiduciaries of every kind and nature; counties, cities, towns and all other political subdivisions or instrumentalities of this State; insurance companies doing business in this State; business and nonprofit corporations; charitable or educational corporations or associations; banks, credit unions and all other financial institutions are hereby specifically authorized and empowered to invest funds held by them in savings accounts of any association operating under this law or any Federal association. Any such investments made by insurance companies shall be eligible for tax reducing purposes under Article 7064 of the Revised Civil Statutes of 1925, as amended, and any such investment by a school district of any of its funds in such savings accounts which are insured by the Federal Savings and Loan Insurance Corporation shall for all purposes be considered as meeting the requirements of Section 1, Acts 1953, Fifty-third Legislature, Regular Session, page 464, Chapter 150, as amended (Article 2786d, Vernon's Annotated Civil Statutes), and Article 2832, Revised Civil Statutes of Texas, 1925, as amended. If upon the effective date of this Act the shares and share accounts of associations operating under Article 881a of the Revised Civil Statutes of 1925, as amended, are legal investments for any particular business, organization, corporation, fiduciary or political subdivision, the savings accounts of associations subject to terms of this Act shall be deemed to be legal investments to the same extent as such shares and share accounts.

Withdrawals from savings accounts

Sec. 6.15. Any savings account holder may at any time present a written application for withdrawal of all or any part of his savings account except to the extent the same may be pledged to the association or to another person on the books of the association. The association may pay in full each and every withdrawal request as presented and without requiring that written application therefor be made or the association may elect to number, date and file in the order of actual receipt every withdrawal application and to pay such requests out of its net receipts. Not more than one half of the net receipts of the association in any month shall be applied to the payment of withdrawal applications unless the board of directors specifically authorizes the use of a greater portion of such receipts for such purpose. By the term "Net receipts" is meant the cash receipts of the association as loan repayments, interest and investments in savings accounts less disbursements for all expenses necessary and incidental to the operation of the association in carrying on its business. Whenever the net receipts so made applicable to withdrawal applications on file for a particular month are not sufficient to pay such applications in full, the applications on file shall be paid out of such net receipts on a pro-rata basis or, with the approval of the Commissioner, the board of directors may fix maximum amounts to be paid upon any one application during any one month and payments shall be made pro-rata out of such net receipts to all applications on file subject to such maximum payment limitation. No association can obligate itself to pay withdrawals on any plan other than that set forth above. While an application for withdrawal by a member remains in effect and unpaid, no withdrawal applications subsequently filed by the same member shall be paid and no loan shall be made secured by transfer or pledge of the account. A member filing a withdrawal application shall not become a creditor of the association by reason of such filing. Full payment may be made at any time to members whose entire interest in the association amounts to One Hundred Dollars (\$100) or less. The Commissioner with the approval of the Building and Loan Section of the Finance Commission and the Governor of Texas may invoke a uniform limitation on the amounts withdrawable from savings accounts of associations subject to this Act during any period when such limitation is necessary in the public interest. The membership of a savings account holder who has filed an application for withdrawal shall remain unimpaired so long as any withdrawal value remains to his credit on the books of the association. An application for withdrawal may be cancelled in whole or in part at any time by a member.

Banks, limitation upon withdrawals, see art. 342-608.

Redemption of savings accounts

Sec. 6.16. At any time funds are on hand for the purpose an association shall have the right to redeem by lot or otherwise, as the board of directors may determine, all or any part of any of its savings accounts on a dividend date by giving thirty (30) days' notice by certified mail addressed to each affected account holder at his last address as recorded on the books of the association. No association shall redeem any of its savings accounts when the association is subject to receivership action under Section 8.16 hereof or when it has applications for withdrawal which have been on file for more than thirty (30) days and have not been reached for payment. The redemption price of savings accounts redeemed shall be the withdrawal value thereof. If the aforesaid notice of redemption shall have been duly given, and if on or before the redemption date the funds

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

necessary for such redemption shall have been set aside so as to be and continue to be available therefor, dividends upon the accounts called for redemption shall cease to accrue from and after the dividend date specified as the redemption date, and all rights with respect to such accounts shall forthwith, after such redemption date, terminate, except only the right of the account holder of record to receive the redemption price.

Lien on savings accounts

Sec. 6.17. Every association operating under this law or any Federal association doing business in this State shall have a lien, without further agreement or pledge, upon all savings accounts owned by any member to whom or on whose behalf the association has made an advance of money by loan or otherwise and upon the default in the repayment or satisfaction thereof, the association may, without notice to or consent of the member, cancel on its books all or any part of the savings accounts owned by such member and apply the value of such accounts in payment on account of such obligation. An association may by written instrument waive its lien in whole or in part on any savings accounts. Any association may take the pledge of savings accounts of the association owned by a member other than the borrower as additional security for any loan secured by an account or by an account and real estate, or as additional security for any real estate loan.

Method of paying dividends on savings accounts

Sec. 6.18. Dividends shall be credited to savings accounts on the books of the association unless a savings account holder shall have requested and the association shall have agreed to pay dividends on such savings account in cash. Dividends payable in cash may be paid by check or bank draft.

CHAPTER SEVEN. COMPUTATION OF EARNINGS, TRANSFERS TO LOSS RESERVES, DIVIDENDS, SURPLUS

Computation of net income

Sec. 7.01. Each association shall close its books on the last business day of June and December of each year, and at such other times as its bylaws may provide, for the purpose of determining the gross income of the association for the period since the date of the last such closing of its books and from which shall be deducted the expenses of operating the association for such period, the balance remaining being the net income for the period.

Transfers to loss reserves

Sec. 7.02. If, at the date of any closing of its books, the loss reserves of an association equal an aggregate amount of less than five per cent (5%) of its savings liability, then an amount equal to at least five per cent (5%) of its net income, or so much thereof as may be necessary to increase its loss reserves to the above required amount, shall be transferred from the net income of the association to its loss reserves. In the event that any credit to the loss reserves of an association is made following the effective date of this Act in excess of the minimum five per cent (5%) requirement the dollar amount of such excess may be carried over as a credit toward the minimum requirement for any subsequent accounting period.

Dividends on savings accounts

Sec. 7.03. After providing for payment of the expenses of operation of the association and for the required minimum transfer to its loss reserves, the board of directors of the association may declare dividends on savings accounts. Dividends, when declared, shall be computed and paid in accordance with such terms and conditions as may from time to time be authorized by rules and regulations promulgated by the Commissioner and the Building and Loan Section of the Finance Commission of Texas. An association shall not be required to pay or credit a dividend of less than One Dollar (\$1) on any account or any dividend on short-term accounts where the savings contract provides for closing the account within one (1) year and waives dividend participation.

Dividends on Permanent Reserve Fund Stock

Sec. 7.04. The balance of net income of the association, if any, may be credited to a surplus account, from which the board of directors of any association whose bylaws provide for the issuance of Permanent Reserve Fund Stock, and which has such stock outstanding, may, at their discretion, and at such times as they may determine, declare and pay dividends in cash or additional stock to the holders of record of such stock outstanding at the date such dividends are declared.

Use of surplus accounts and expense fund contributions

Sec. 7.05. Any association at any closing date may use all or any part of any surplus accounts, whether earned or paid-in, or any expense fund contributions on its books at such time to meet all or any part of the expenses of operating the association for the period just closed, required transfers to loss reserves, or the payment or credit of dividends declared on savings accounts.

CHAPTER EIGHT. SUPERVISION AND REGULATION, BOOKS AND RECORDS, ACCOUNTING PRACTICES, STATEMENTS, REPORTS, AUDITS, EXAMINATIONS, VIOLATIONS, RECEIVERSHIP**Supervision and regulation**

Sec. 8.01. All associations subject to this Act shall be supervised and regulated and the provisions of this Act shall be enforced by the Savings and Loan Department of Texas and the Savings and Loan Commissioner, acting pursuant to the authority hereby delegated and the authority delegated by House Bill No. 91, Chapter 198, Acts of the Regular Session of the Fifty-seventh Legislature, 1961.¹

¹ Article 342—205.

Books and records

Sec. 8.02. Every association shall keep at its home office correct and complete books of account and minutes of the meetings of members and directors. Complete records of all business transacted at the home office shall be maintained at the home office. Records of business transacted at any branch or agency office may be kept at such branch or agency office; provided, that control records of all business transacted at any branch or agency office shall be kept at the home office.

Accounting practices

Sec. 8.03. Every association shall use such forms and observe such accounting principles and practices as the Commissioner may require from time to time.

Misdescription of assets

Sec. 8.04. No association by any system of account or any device of bookkeeping shall, either directly or indirectly, knowingly enter any of its assets upon its books in the name of any other person, partnership, association or corporation or under any title or designation that is not truly descriptive of such assets.

Charging off or setting up reserves against bad assets

Sec. 8.05. The Commissioner, after a determination of value, may order that assets in the aggregate, to the extent that such assets have depreciated in value, be charged off, or that a special reserve or reserves equal to such depreciation in value be set up by transfers from surplus.

Maintenance of membership records

Sec. 8.06. Every association shall maintain membership records, which shall show the name and address of the member, the status of the member as a savings account holder, a stockholder or an obligor, and the date of membership thereof.

Reproduction and destruction of records

Sec. 8.07. Any association may cause any or all records kept by such association to be copied or reproduced by any photostatic, photographic, or microfilming process which correctly and permanently copies, reproduces or forms a medium for copying or reproducing the original record on a film or other durable material, and such association may thereafter dispose of the original record. Any such copy or reproduction shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original record.

Financial statement

Sec. 8.08. Every association shall prepare and publish annually in the month of January of each year in a newspaper of general circulation in the county in which the home office of such association is located, a statement of its financial condition in the form prescribed or approved by the Commissioner as of the last business day of December of the preceding year.

Annual reports, other reports

Sec. 8.09. On or before the last day of February in each year, every association shall make an annual written report to the Commissioner, upon a form to be prescribed and furnished by the Commissioner, of its affairs and operations, which shall include a complete statement of its financial condition, including a statement of income and expense since its last previous similar report, for the twelve (12) months ending on the last business day of December of the previous year. Every such report shall be signed by the president, vice president or secretary. Every association shall also make such other reports as the Commissioner may from time to time require, which reports shall be in such form and filed on

such dates as he may prescribe and shall, if required by him, be signed in the same manner as the annual report.

Annual audit and examination

Sec. 8.10. The Commissioner shall, at least once each year, without previous notice, examine or cause an examination to be made into the affairs of every association subject to this Act. If an association is not audited at least once each year in a manner satisfactory to the Commissioner, the examination of such association shall include an audit. Upon completion of any audit, two (2) copies of same, signed and certified by the auditor making such audit, shall be promptly filed with the Commissioner. The Commissioner, any deputy commissioner, or his examiners or auditors shall have free access to all books and records of an association which relate to its business and books and records kept by any officer, agent or employee relating to or upon which any record of its business is kept; and may summon witnesses and administer oaths or affirmations in examination of the directors, officers, agents, or employees of any such association, or any other person in relation to its affairs, transactions and condition, and may require and compel the production of records, books, papers, contracts or other documents by court order, if not voluntarily produced.

Joint examinations

Sec. 8.11. The Commissioner may examine or cause to be examined any association in conjunction with an examination by the Federal Home Loan Bank Board, a Federal Home Loan Bank or the Federal Savings and Loan Insurance Corporation, and shall accept any audit made by or accepted by any of said agencies during the course of any examination of an association.

Extra or additional examinations

Sec. 8.12. Whenever, in the judgment of the Commissioner, the condition of any association renders it necessary or expedient to make an extra or additional examination or audit or to devote any extraordinary attention to its affairs, the Commissioner shall cause such work to be done, and such association shall be charged with the cost of same. A full and complete copy of the report of all examinations and audits shall be promptly furnished to the association examined or audited. Every report of examination or audit shall be presented to the board of directors at their next regular meeting, or at a special meeting called for such purpose, and noted in the minutes thereof.

Commissioner shall order discontinuance of violations

Sec. 8.13. If the Commissioner, as a result of any examination or from any report made to him shall find that any association or any director, officer or employee of any association is violating the provisions of the charter or bylaws of the association, or the laws of this State, or the laws of the United States, or any lawful rule or regulation promulgated by the Commissioner and the Building and Loan Section of the Finance Commission, he shall deliver a formal written order to the board of directors of the association in which the facts known to the Commissioner are set forth, demanding the discontinuance of such violation and conformance with all requirements of law. The association affected by such order may within ten (10) days after the same has been delivered to the association request a public hearing before the Commissioner in regard to such order, at which hearing any pertinent evidence relating to said order or the facts stated therein may be presented. After such hearing the Commissioner, on the basis of the evidence presented and any matters of

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

record in his office, shall either continue such order in effect, modify the same or set it aside.

Commissioner may remove directors, officers and employees participating in violations

Sec. 8.14. The Commissioner may require that any director, officer or employee of an association, who has participated in a violation as described in Section 8.13, be removed from the association if the action of the person or persons concerned was knowingly and willfully taken. Prior to entering an order of removal, the Commissioner shall deliver a full statement of the acts and conduct to which he objects to the board of directors of the association and the person or persons concerned and of his intention to enter a removal order. If a hearing on the matter is requested within ten (10) days after such delivery, the Commissioner shall hold a public hearing at which any pertinent evidence relating to the matters set forth in such statement may be presented. After such hearing the Commissioner, on the basis of the evidence presented at such hearing, may proceed to enter an order for the immediate removal of the director, officer or employee affected, a reprimand of the individuals and association concerned or a dismissal of the entire matter. If no hearing is requested within the time specified, the Commissioner may proceed to enter an order of removal on the basis of the facts set forth in his original statement.

When order may be reviewed

Sec. 8.15. If a hearing has been held in regard to an order made under Sections 8.13 or 8.14 hereof and such order is continued either in its original form or a modified form, the same shall be final and reviewable when the Commissioner makes and enters in the record his decision after such hearing. If no hearing is requested on such an order the order shall be final and reviewable after the expiration of twenty (20) days from the date such order is entered by the Commissioner.

Receivership

Sec. 8.16. If, in the judgment of the Commissioner, the public interest requires it, he may apply to a district court of the county in which the home office of any association is located for the appointment of a receiver for such association. Such court shall appoint a receiver as applied for if it finds either (i) that such association's assets in the aggregate do not have a fair value equal to the total liabilities of the association to its creditors and to all holders of savings accounts or (ii) that the association is in violation of any final and binding order of the Commissioner and that such alleged violations cannot be otherwise corrected. All proceedings in regard to such applications shall be governed by the laws of this State applicable to receiverships generally. The Commissioner, or his deputy or a Savings and Loan Examiner may be appointed by the court as a receiver. The receiver, upon appointment by the court, shall immediately take charge of the affairs of the association, subject to the direction of the court, and proceed to conduct the business of the association or to take such steps as may be necessary to conserve the assets and protect the rights of the creditors of the association and its members as may be ordered by the court. The official who is appointed receiver shall receive no additional compensation for such service. If the association is an institution insured by the Federal Savings and Loan Insurance Corporation, said corporation shall be tendered appointment as receiver or co-receiver. If it accepts such appointment, it may, nevertheless, make loans on the security of or purchase at public or private sale any part or all of the assets of the association of which it is receiver or co-receiver, provid-

ed such loan or purchase is approved by such court. The directors, officers and attorneys of an association in office at the time of the initiation of any proceeding under this Section are expressly authorized to contest any such proceedings and shall be reimbursed for reasonable expenses and attorneys' fees by the association or from its assets, the amount of which shall be fixed by the court.

Communications from Commissioner

Sec. 8.17. Every approval or rejection by the Commissioner given pursuant to the provisions of this Act and every communication having the effect of an order or instruction to any association shall be sent by certified mail to the association affected thereby, addressed to the president thereof at the home office of the association, and shall be presented to the board of directors of such association at its next regular meeting or at a special meeting called for such purpose and noted in the minutes of such meeting.

CHAPTER NINE. FOREIGN ASSOCIATIONS

Limitation on right to do business as a savings and loan association

Sec. 9.01. From and after the effective date of this Act no person, firm, company, association, fiduciary, partnership or corporation by whatever name called shall do business as a savings and loan association within this State or maintain any office in this State for the purpose of doing such business except:

(1) associations organized under the laws of this State and subject to this Act;

(2) Federal associations as herein defined;

(3) savings and loan associations organized under the laws of another state of the United States which have held on the effective date of this Act certificates of authority issued pursuant to Section 61 of Senate Bill No. 111, Acts, 1929, Forty-first Legislature, Second Called Session, page 100, Chapter 61,¹ for not less than ten (10) consecutive years and have actually done business in this State continuously for such period; and

¹ Article 881a—60.

(4) to the extent any activity does not constitute transacting business in this State under Article 8.01B of the Texas Business Corporation Act.

Renewal of outstanding certificates

Sec. 9.02. Any savings and loan association organized under the laws of another state of the United States holding a certificate of authority to do business in this State on the effective date of this Act may renew such certificate from year to year thereafter by the payment of an annual renewal fee of Five Hundred Dollars (\$500) or Twenty Dollars (\$20) for each million dollars or major fraction thereof of the total assets of such association, whichever is the greater, and by fulfilling all the prerequisites required by law at the time it secured its last renewal certificate prior to the effective date of this Act. Such association shall pay the same annual fees in lieu of examination charges paid by domestic associations under Section 11.06 of this Act, together with all traveling expenses of such examination; provided that if such examination fee is inadequate to defray all expenses of such examination, then such association shall pay the additional cost thereof. Examinations shall not be made more than once each year.

Contracts deemed made in this state

Sec. 9.03. Any contract made by any foreign association with any citizen of this State shall be deemed and considered a Texas contract and shall be construed by all the courts of this State according to the laws of this State.

Rights, privileges and obligations of foreign associations with certificates of authority

Sec. 9.04. Any foreign association operating under a certificate of authority as herein provided, during the time such certificate is in force, shall have all of the rights and privileges of associations created under this Act and its savings accounts shall be eligible for investment to the same extent as that of a domestic association; likewise, all provisions of this Act and all rules and regulations made pursuant thereto shall be applicable to such foreign associations.

Power of Commissioner to revoke certificate

Sec. 9.05. The Commissioner may issue discontinuance orders against a foreign association in the same manner as against domestic associations as set forth in Section 8.13 hereof, and upon the failure or refusal of a foreign association to comply with a final order of the Commissioner he shall revoke the certificate of authority held by such association and it will be unlawful thereafter for any agent of such association to transact any business in this State, except to receive payments to apply on loan contracts then in effect, and to pay withdrawal requests.

Federal savings and loan associations

Sec. 9.06. Federal associations are not foreign corporations or associations. Unless Federal laws or regulations provide otherwise, Federal associations and the members thereof shall possess all of the rights, powers, privileges, benefits, immunities and exemptions that are herein provided or that may hereafter be provided by the laws of this State for associations subject to this Act or the members thereof. This provision is additional and supplemental to any provision which, by specific reference, is applicable to Federal associations and the members thereof.

**CHAPTER TEN. CONVERSION, REORGANIZATION, MERGER
AND CONSOLIDATION, VOLUNTARY LIQUIDATION**

Conversion into Federal associations

Sec. 10.01. Any association subject to this Act may convert itself into a Federal association in accordance with the provisions of Section 5 of the Home Owners' Loan Act of 1933, as now or hereafter amended,¹ upon a majority vote of the members at any annual meeting or any special meeting called to consider such action. A copy of the minutes of the proceedings of such meeting of the members, verified by affidavit of the secretary or an assistant secretary shall be filed in the office of the Commissioner within ten (10) days after the date of such meeting. A sworn copy of the proceedings of such meeting, when so filed, shall be presumptive evidence of the holding and action of such meeting. Within three (3) months after the date of such meeting, the association shall take such action in the manner prescribed and authorized by the laws of the United States as shall make it a Federal association. There shall be filed with the Commissioner a copy of the charter issued to such Federal association

by the Federal Home Loan Bank Board or a certificate showing the organization of such association as a Federal association, certified by the secretary or assistant secretary of the Federal Home Loan Bank Board. No failure to file any such instruments with the Commissioner shall affect the validity of such conversion. Upon the grant of any association of a charter by the Federal Home Loan Bank Board, the association receiving such charter shall cease to be an association incorporated under this Act and shall no longer be subject to the supervision and control of the Commissioner. Upon the conversion of any association into a Federal association, the corporate existence of such association shall not terminate, but such Federal association shall be deemed to be a continuation of the entity of the association so converted and all property of the converted association, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, and things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, shall immediately by operation of law and without any conveyance or transfer and without any further act or deed remain and be vested in and continue and be the property of such Federal association into which the state association has converted itself, and such Federal association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the converting association, and such Federal association as of the time of the taking effect of such conversion shall continue to have and succeed to all the rights, obligations, and relations of the converting association. All pending actions and other judicial proceedings to which the converting state association is a party shall not be deemed to have abated or to have discontinued by reason of such conversion, but may be prosecuted to final judgment, order, or decree in the same manner as if such conversion into Federal association had not been made and such Federal association resulting from such conversion may continue such action in its corporate name as a Federal association, and any judgment, order, or decree may be rendered for or against it which might have been rendered for or against the converting state association theretofore involved in such judicial proceedings. Any association or corporation, which has heretofore converted itself into a Federal association under the provisions of the Home Owners' Loan Act of 1933 and has received a charter from the Federal Home Loan Bank Board, shall hereafter be recognized as a Federal association, and its Federal charter shall be given full credence by the courts of this State to the same extent as if such conversion had taken place under the provisions of this Section; provided, however, that there shall have been compliance with the foregoing requirements with respect to the filing with the Commissioner of a copy of the Federal charter or a certificate showing the organization of such association as a Federal association. All such conversions are hereby ratified and confirmed, and all the obligations of such an association which has so converted shall continue as valid and subsisting obligations of such Federal association, and the title to all of the property of such an association shall be deemed to have continued and vested, as of the date of issuance of such Federal charter, in such Federal association as fully and completely as if such conversion had taken place since the enactment of this Act pursuant to this Section.

¹ 12 U.S.C.A. § 1464.

Conversion into state chartered association

Sec. 10.02. Any Federal association may convert itself into an association under this Act upon a majority vote of the members of such

Federal association cast at an annual meeting or any special meeting called to consider such action. Copies of the minutes of the proceedings of such meeting of members, verified by affidavit of the secretary or an assistant secretary, shall be filed in the office of the Commissioner and mailed to the Federal Home Loan Bank Board, Washington, D.C., within ten (10) days after such meeting. Such verified copies of the proceedings of the meeting when so filed shall be presumptive evidence of the holding and action of such meeting. At the meeting at which conversion is voted upon, the members shall also vote upon the directors who shall be the directors of the state-chartered association after conversion takes effect. Such directors then shall execute two (2) copies of the application for certificate of incorporation provided in this Act. The Commissioner shall, upon receipt of such application, cause the association to be examined and if he finds that it is in sound condition, approve the conversion and insert in the certificate of incorporation, at the end of the paragraph preceding the testimonium clause, the following: "This association is incorporated by conversion from a Federal savings and loan association." Each of the directors chosen for the association shall sign and acknowledge the application for certificate of incorporation as subscribers thereto and the proposed bylaws as incorporators of the association. The provisions of this Act shall, so far as applicable, apply to such conversion. The state-chartered association shall be a continuation of the corporate entity of the converting Federal association and continue to have all of its property and rights.

Reorganization, merger and consolidation

Sec. 10.03. Pursuant to a plan adopted by the board of directors and approved by the Commissioner as equitable to the members of the association and as not impairing the usefulness and success of other properly conducted associations in the same vicinity, an association shall have power to reorganize or to merge or consolidate with another association or Federal association within its vicinity; provided, that the plan of such reorganization, merger or consolidation shall be approved by a majority of the total vote the members are entitled to cast. Approval may be voted at either an annual meeting or at a special meeting called to consider such action. In all cases the corporate continuity of the resulting corporation shall possess the same incidents as that of an association which has converted in accordance with this Act.

Voluntary liquidation

Sec. 10.04. At any annual meeting or any special meeting called for such purpose, any association may by majority vote of its members resolve to liquidate and dissolve the association; provided, that before such resolution shall take effect, a copy thereof certified to by the president and the secretary of the association, together with an itemized statement of its assets and liabilities sworn to by a majority of its board of directors, shall be filed with and approved by the Commissioner. When the Commissioner shall have approved such resolution it shall thereafter be unlawful for such association to accept any additional savings accounts or additions to savings accounts or to make any additional loans, but all its income and receipts in excess of actual expenses of liquidation of the association shall be applied to the discharge of its liabilities. The board of directors of the association, under the supervision of the Commissioner and in accordance with a plan of liquidation approved by him, shall thereupon proceed to liquidate the affairs of the association and reduce the assets thereof to cash for the purpose of paying, satisfying and discharging all existing

liabilities and obligations of the association, including the withdrawal value of all savings accounts, the balance remaining, if any there be, to be distributed pro-rata among the savings account members of record on the date of adoption by the association of the resolution to liquidate; provided, however, that if the association be one whose bylaws provide for the issuance of Permanent Reserve Fund Stock and such association has issued and has outstanding such stock, then any such balance remaining after all liabilities and obligations have been fully paid and satisfied, including the withdrawal value of all savings accounts, shall be distributed among the holders of such stock in proportion to their stockholding. All expenses incurred by the Commissioner or any of his representatives during the course of any such liquidation shall be paid from the assets of the association. Upon completion of liquidation, the board of directors shall file with the Commissioner a final report and accounting of such liquidation. The approval of such report by the Commissioner shall operate as a complete and final discharge of the board of directors and each member in connection with the liquidation of such association.

Banks, liquidation, see art. 342—801 et seq.

CHAPTER ELEVEN. MISCELLANEOUS

Exemption from securities laws

Sec. 11.01. Savings associations, the officers, employees or agents, savings accounts and the permanent reserve stock thereof, and the sale, issuance or offering of savings accounts and permanent reserve fund stock of any association or Federal savings and loan association are hereby exempted from all provisions of law of this State, other than this Act, which provide for supervision, registration or regulation in connection with the sale, issuance or offering of securities, and the sale, issuance or offering of any such accounts or stock shall be legal without any action or approval whatsoever on the part of any official, other than the Commissioner, authorized to license, regulate, or supervise the sale, issuance or offering of securities.

Acknowledgments by members and employees

Sec. 11.02. No public officer qualified to take acknowledgments or proofs of written instruments shall be disqualified from taking the acknowledgments or proofs of any instrument in writing in which an association or Federal association is interested by reason of his membership in or stockholding in or employment by such an institution so interested, and any such acknowledgments or proofs heretofore taken are hereby validated.

Closing places of business

Sec. 11.03. All associations and Federal savings and loan associations operating in this State are hereby authorized and permitted to close their respective places of business at any time the board of directors of such institution shall so determine.

Right to act to avoid loss

Sec. 11.04. Nothing in this Act or the statute law of this State shall be construed as denying to an association the right to invest its funds, operate a business, manage or deal in property, or take any other action over whatever period of time may reasonably be necessary to avoid loss

on a loan or investment theretofore made or an obligation created in good faith.

Fees

Sec. 11.05. The amount of the fees to be charged by the Commissioner for supervision and examination of associations, filing of applications and other documents and for other services performed by the Commissioner and his office and the time and manner of payment thereof shall be fixed by rule and regulation adopted by the Commissioner and the Building and Loan Section of the Finance Commission, acting pursuant to the rule-making power delegated by House Bill No. 91, Chapter 198, Acts of the Fifty-seventh Legislature, Regular Session, 1961.¹ All fees collected by the Commissioner shall be retained by him and expended only for the expenses of the Savings and Loan Department.

¹ Article 342—205.

All associations authorized to conduct a savings and loan business shall conform to this Act

Sec. 11.06. Any association or corporation authorized to conduct a building and loan association, savings and loan association, building society or other similar business under prior law by whatever name known which has substantially the same purpose as a savings and loan association as defined by this Act shall, at the time this Act becomes effective, be subject to the provisions of this Act and shall thereafter be deemed to exist by virtue of this Act. The name, rights, powers, privileges, and immunities of each such association or corporation shall be governed, controlled, construed, extended, limited and determined by the provisions of this Act to the same extent and effect as if such corporation had been incorporated pursuant hereto, and the Articles of association, certificate of incorporation, or charter, however entitled, bylaws and constitutions, or other rules of every such corporation heretofore made or existing are hereby modified, altered and amended to conform to the provisions of this Act, with or without the issuance or approval by the Commissioner of conformed copies of such documents, and the same are declared void to the extent that the same are inconsistent with the provisions of this Act; except that (i) the obligations of any such existing corporation, whether between such corporation and its members, or any of them, or any other person or persons, or any valid contract between the members of such corporation, or between such corporation and any other person or persons, existing at the time this Act takes effect shall not be in any way impaired by the provisions of this Act and (ii) no association shall be required to change its name, and, with such exceptions, every such corporation shall possess the rights, powers, privileges and immunities and shall be subject to the duties, liabilities, disabilities and restrictions conferred and imposed by this Act, notwithstanding anything to the contrary in its certificate of incorporation, bylaws, constitution, or rules. All obligations of any such corporation heretofore contracted shall be enforceable by it and in its name, and demands, claims, and rights of action against any such corporation may be enforced against it as fully and completely as they might have been enforced heretofore.

Outstanding shares, stock, share accounts and investment certificates (except Permanent Reserve Fund Stock) to be considered as savings accounts

Sec. 11.07. From and after the effective date of this Act any shares, stock, share accounts and investment certificates (except Permanent Reserve Fund Stock) which an association subject to this Act has issued and

which is then outstanding shall be considered as savings accounts as defined in this Act and the holders thereof shall have all of the rights and privileges appertaining to the holder of savings accounts under this Act as well as any valid contractual or other legal rights in respect thereto preserved by Section 11.06 of this Act; except that any such outstanding shares or share accounts which are not entitled to dividends shall not by virtue of any provision of this Act become so entitled.

Associations prohibited from issuing any stock or shares not authorized by this Act

Sec. 11.08. No association subject to this Act shall, after the effective date of this Act, issue any form of stock, share, account or investment certificate except as permitted by this Act for associations formed under its terms.

Ad valorem taxation of the property of an association

Sec. 11.09. Each association subject to this Act and all Federal associations domiciled in this State shall render for ad valorem taxation all of its real estate as other real estate is rendered. The personal property of each such association shall be valued as other personal property is valued for assessment in this State, and shall be rendered by such association to the appropriate assessing unit or units in the following manner:

(1) its furniture, fixtures, equipment and automobiles shall be rendered where such property is located in the same manner as other similar property;

(2) the remainder of the personal property of such association shall be rendered as a whole in the city and county where its principal office is located at the value remaining after deducting from the total value of such association's entire assets the following:

- (a) all debts of every kind and character owed by such association;
- (b) all tax free securities owned by such association;
- (c) the loss reserves and surplus of the association;
- (d) the savings liability of the association;
- (e) the assessed value of its furniture, fixtures and real estate.

Initiation of rule-making by associations

Sec. 11.10. When as many as twenty per cent (20%) of the associations subject to this Act petition the Commissioner in writing requesting the promulgation, amendment or repeal of a rule or regulation the Commissioner shall initiate rule-making proceedings under Section (e) of Article 5, Sub-Chapter II, Chapter 97, Acts of the Forty-eighth Legislature, as amended by House Bill No. 91, Acts 1961, Fifty-seventh Legislature, Chapter 198.¹

¹ Article 342—205.

Hearing procedure

Sec. 11.11. (1) Notice of any hearing held pursuant to orders issued under Sections 8.13 and 8.14 shall be given to all parties affected by such orders. Notice of all other hearings held under any provision of this Act shall be given to all associations and Federal associations in the county where the subject matter of the hearing is or will be situated.

(2) Opportunity shall be afforded any interested party to respond and present evidence and argument on all issues involved in any hearing held under any provision of this Act.

(3) Upon the written request of any interested party the Commissioner shall keep a formal record of the proceedings of any hearing held under any provision of this Act.

(4) A decision or order adverse to a party who has appeared and participated in a hearing shall be in writing and shall include findings of fact and conclusions of law, separately stated, on all issues material to the decision reached. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(5) A decision or order entered after hearing shall be final and appealable fifteen (15) days after the day the same is entered unless a motion for rehearing is filed by a party within such time and if the motion for rehearing is overruled such decision or order shall be final and appealable from and after the date the order overruling such motion is entered.

(6) Parties to a hearing shall be promptly notified either personally or by mail of any decision, order or other action taken in respect to the subject matter of the hearing.

Judicial review

Sec. 11.12. Any party with an interest in the subject matter thereof who is dissatisfied with any act, order, ruling or decision of the Commissioner taken or made, or with any rule or regulation promulgated by the Commissioner and the Building and Loan Section of the Finance Commission in connection with the administration of this Act, may secure judicial review thereof in the following manner:

(1) Venue.

(a) Proceedings for review of a removal order entered pursuant to Section 8.14 of this Act, may be instituted by filing a petition as in civil actions generally against the Commissioner, as defendant, either in a district court of Travis County, or in the district court of the county in which any person affected by such order resides or of the county in which the principal office of the association affected by such order is located.

(b) Proceedings for review of other acts, orders, rulings or decisions of the Commissioner or of any rule or regulation promulgated by the Commissioner and the Building and Loan Section of the Finance Commission may be instituted by filing a petition as in a civil action generally against the Commissioner, as defendant, in a district court of Travis County and not elsewhere.

(2) Time for Filing. Any petition for judicial review must be filed within thirty (30) days after the action, order, ruling or decision of the Commissioner is final or the rule or regulation complained of is promulgated.

(3) Stay of Enforcement. The filing of a petition for review shall not itself stay the effect of the act, order, ruling, decision or rule or regulation complained of, but the Commissioner or the reviewing court may order a stay upon appropriate terms and if a stay is so granted no supersedeas bond shall be required.

(4) Service of Process. The petition for review shall be served on the Commissioner and upon all parties of record in any hearing before the Commissioner in respect to the matter for which review is sought or upon the Commissioner alone if the matter for which review is sought is a rule or regulation promulgated in connection with the administration of this Act. After service of such petition upon the Commissioner and within the time permitted for filing an answer, the Commissioner shall certify to the District Court in which such petition is filed the record of the proceedings to which the petition refers. The cost of preparing and certifying such record shall be paid to the Commissioner by the petitioner and taxed as part of the cost in the case, to be paid as directed by the court upon final determination of said cause.

(5) Trial.

(a) The review of an order issued under Section 8.14 of this Act shall be tried in the same manner as civil actions generally and the complaining party shall be entitled to a jury. The trial shall be governed by the rules of civil procedure and all fact issues material to the validity of such order shall be determined de novo on the preponderance of the evidence and the substantial evidence rule shall not apply. Any relevant and competent evidence shall be admissible for or against the order.

(b) The review of any other act, order, ruling or decision of the Commissioner or of any rule or regulation shall be tried by the court without a jury in the same manner as civil actions generally and all fact issues material to the validity of the Act, order, ruling, decision or rule or regulation complained of shall be redetermined in such trial on the preponderance of the competent evidence, but no evidence shall be admissible which was not adduced at the hearing on the matter before the Commissioner or officially noticed in the record of such hearing.

(6) Burden of Proof and Judgment. The burden of proof shall be on the plaintiff. The reviewing court may affirm the action complained of or remand the matter to the Commissioner for further proceedings.

(7) Appeals. Appeals from any final judgment may be taken by either party in the manner provided for in civil actions generally, but no appeal bond shall be required of the Commissioner.

Slander

Sec. 11.13. Any person who shall knowingly make, utter, circulate or transmit to another, or others, any statement untrue in fact, derogatory to the financial condition of any association subject to this Act or any Federal association in this State, with intent to injure any such financial institution, or who shall counsel, aid, procure or induce another to originate, make, utter, transmit or circulate any such statement or rumor, with like intent, shall be guilty of an offense and upon conviction shall be punished by a fine of not more than Two Thousand, Five Hundred Dollars (\$2,500) or by imprisonment in the State penitentiary for a period not exceeding two (2) years or both by such fine and imprisonment.

Penalty for embezzlement, etc.

Sec. 11.14. Every officer, director, member of any committee, clerk or agent of any association subject to this Act or any Federal association in this State who embezzles, abstracts or misapplies any of the moneys, funds or credits of such association, who issues or puts into circulation any warrant or other orders without proper authority, who issues, as-

signs, transfers, cancels or delivers up any note, bond, draft, mortgage, judgment, decree or any other written instrument belonging to such association, who certifies to or makes a false entry in any book, report or statement of or to such association, with intent in either case to deceive, injure or defraud such association, or any member thereof, or for the purpose of inducing any person to become a member thereof, or to deceive anyone appointed to examine the affairs of such association shall be deemed guilty of a felony and on conviction thereof shall be imprisoned in the State penitentiary for a period of not less than one (1) year nor more than ten (10) years. Whoever, with intent to deceive, injure or defraud aids or abets any officer, member of any committee or other person in committing any of the prohibited acts enumerated herein shall be deemed guilty of a felony, and on conviction thereof shall be imprisoned in the State penitentiary for a period of not less than one (1) year nor more than ten (10) years.

Penalty for declaring greater dividends than earned

Sec. 11.15. Any member of the board of directors of an association subject to this Act who knowingly votes to declare or, being secretary or manager thereof, who wilfully declares or advises the board of directors thereof to declare a greater dividend than has actually been earned, or has been previously accumulated as surplus by such association, shall personally refund same and be liable to the corporation therefor jointly and severally.

Penalty for failing to comply with law

Sec. 11.16. Any association violating the provisions of this law or failing to comply with the provisions of this law or any valid rules or regulations made thereunder may be required by the Commissioner to pay from Five Dollars (\$5) per day to Twenty-five Dollars (\$25) per day to the Commissioner for each day it so fails after lawful notice of the delinquency by the Commissioner. The Attorney General is authorized to file suit for the collection of such penalty upon certification by the Commissioner of the failure or refusal of such association to remit the penalty assessed by him.

Penalty for suppressing evidence

Sec. 11.17. Every officer, director, employee or agent of any association subject to this Act who, for the purpose of concealing any fact or suppressing any evidence against himself or against any other person, abstracts, removes, mutilates, destroys or secretes any paper, book or record of any association or of the Commissioner, shall be deemed guilty of a felony and upon conviction therefor, shall be punished by confinement in the State penitentiary for a period of not less than one (1) year nor more than five (5) years.

Disclosure of examiners—penalty

Sec. 11.18. The Commissioner and any examiner, inspector, deputy, assistant or clerk, appointed or acting under the provisions of this Act, failing to keep secret any facts or information regarding an association obtained in the course of an examination or by reason of his official position, except when the public duty of such officer required him to report upon or take official action regarding the affairs of the association so examined, or who wilfully makes a false official report as to the condition of such association, shall be removed from his position or office and shall be fined not more than Five Hundred Dollars (\$500), or imprisoned in the county jail for not more than one (1) year, or both. Reports of ex-

aminations made to the Commissioner shall be regarded as confidential and not for public record or inspection, except that for good reason same may be made public by the Commissioner, but copies thereof may, upon request of the association, be furnished to the Federal Home Loan Bank Board and/or to the Federal Home Loan Bank for the purpose of meeting the requirements of the Federal Home Loan Bank Act.¹ Nothing herein shall prevent the proper exchange of information relating to associations and the business thereof with the representatives of savings and loan departments of other states, but in no case shall the private business or affairs of any individual association be disclosed. Any official violating any provision of this Section, in addition to the penalties herein provided, shall be liable, with his bondsmen, to the person or corporation injured by the disclosure of such secrets. The foregoing provisions shall not apply to any facts or information or to any reports of investigations obtained or made by the Commissioner or his staff in connection with any applications for a charter under this Act or in connection with any hearing held by the Commissioner under this Act and any such facts, information or reports may be included in the record of the appropriate hearing. Acts 1963, 58th Leg., p. 269, ch. 113, § 1.

¹ 12 U.S.C.A. § 1421 et seq.

Effective January 1, 1964.

Sections 2 to 5 of Laws 1963, 58th Leg., p. 269, ch. 113, read as follows:

"Sec. 2. Repeal of Conflicting Laws.

"(a) In connection with the general purpose of this Act the following Statutes and Acts, together with all laws or parts of laws in conflict herewith, are hereby repealed:

"(1) Articles 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881 of Title 24, Revised Civil Statutes of Texas;¹⁹ Articles 1134, 1135, 1136, Penal Code of Texas, and all amendments to said Articles.²⁰

"(2) Acts 1929, Forty-first Legislature, Second Called Session, page 100, Chapter 61, as amended Acts 1930, Forty-first Legislature, Fifth Called Session, page 193, Chapter 51; Acts 1931, Forty-second Legislature, page 53, Chapter 36; Acts 1931, Forty-second Legislature, page 320, Chapter 191; Acts 1931, Forty-second Legislature, page 331, Chapter 198; Acts 1932, Forty-second Legislature, Third Called Session, page 34, Chapter 18; Acts 1932, Forty-second Legislature, Third Called Session, page 32, Chapter 17; Acts 1935, Forty-fourth Legislature, page 159, Chapter 68; Acts 1939, Forty-sixth Legislature, Title: Building and Loan Associations, page 74, Chapter 1, page 76, Chapter 2, page 87, Chapter 3; Acts 1941, Forty-seventh Legislature, page 346, Chapter 188; Acts 1943, Forty-eighth Legislature, page 482, Chapter 323; Acts 1945, Forty-ninth Legislature, page 28, Chapter 18; Acts 1947, Fiftieth Legislature, page 348, Chapter 196; Acts 1947, Fiftieth Legislature, page 488, Chapter 285; Acts 1949, Fifty-first Legislature, page 486, Chapter 263; Acts 1949, Fifty-first Legislature, page 696, Chapter 363; Acts 1949, Fifty-first Legislature, page 966, Chapter 534; Acts 1951, Fifty-second Legislature, page 204, Chapter 119; Acts

1951, Fifty-second Legislature, page 233, Chapter 139; Acts 1953, Fifty-third Legislature, page 1028, Chapter 425; Acts 1957, Fifty-fifth Legislature, page 1319, Chapter 445 (Article 881a, Subdivision 1-69, Vernon's Civil Statutes of Texas).

"(3) Acts 1949, Fifty-first Legislature, page 601, Chapter 319 (Article 881b, Vernon's Civil Statutes of Texas).

"(b) The repeal of a prior act by this Act shall not impair or otherwise affect any right accrued or established, or any liability or penalty incurred, under the provisions of such act prior to the repeal thereof.

"Sec. 3. Severability. 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 portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

"Sec. 4. Effective Date. This Act shall take effect on January 1, 1964.

"Sec. 5. Emergency. The fact that the present laws relating to savings and loan associations are in many respects inadequate, containing in many instances overlapping, ambiguous, inconsistent and obsolete provisions and seriously impairing the efficient operation of such associations and their ability to serve the public needs in home financing creates an emergency and an imperative public necessity, demanding that the Constitutional Rule requiring all bills to be read on three several days in each House be suspended and such Rule is hereby suspended and this Act shall take effect and be in full force from and after the date specified in Section 4 hereof and it is so enacted."

Sale of checks, exemption of savings and loan association from license, see art. 489d, § 4.

TABLE

Former Articles to Present Article

Showing where provisions of former articles of the Civil Statutes and Penal Code relating to building and loan associations are now covered under article 852a relating to savings and loan associations.

Former Article of Civil Statutes	Present Section of Article 852a	Former Article of Civil Statutes	Present Section of Article 852a	Former Article of Civil Statutes	Present Section of Article 852a
852	2.01	881a-11	8.12	881a-52	11.02
853	—	881a-12	8.03, 8.06, 8.07	881a-53	11.09
854	3.01	881a-13	8.13	881a-54	10.03
855	3.05	881a-14, 881a-15	—	881a-54A	10.01, 10.02
856	2.02	881a-16	8.16	881a-55	10.04
857	5.05	881a-17	8.08	881a-56	—
858	—	881a-18	8.17	881a-57	9.01, 9.04
859	1.03(6)	881a-19, 881a-20	—	881a-57a	9.06
860	5.12	881a-21	3.05	881a-58	9.01, 9.02
861, 862	—	881a-21a	10.03	881a-59	—
863	8.08	881a-22	6.07	881a-60	9.01, 9.02
864	8.01	881a-23	6.08, 6.09	881a-61	11.05
865	8.09	881a-24	6.11, 6.12	881a-62	—
866	8.10	881a-25	5.05	881a-63	9.02
867	8.16, 10.04	881a-26	5.12, 5.14	881a-64	9.05
868, 869	—	881a-27	—	881a-65	9.03
870	2.04	881a-28	11.06	881a-66	—
871	10.03	881a-29	2.01, 2.12	881a-67	2.12
872	10.04	881a-30	2.01	881a-68, 881a-69	—
873	—	881a-31	2.11	881b	11.03
874	9.01	881a-32	3.01, 3.03, 8.14		
875	9.01, 9.02	881a-33	—	Former Article of Penal Code	Present Section of Article 852a
876-878	—	881a-34	1.03(10), 3.06	1134	11.14
879	9.02	881a-35, 881a-36	—	1135	11.16
880	9.05	881a-37	5.01-5.06, 5.11-5.13	1136	—
881	—	881a-37a	—	1136a-1	—
881a-1	1.03(2)	881a-38 to 881a-40	—	1136a-2	—
881a-2	2.08	881a-41	6.18, 7.03, 7.04	1136a-3	11.13
881a-3	2.09	881a-42	7.03, 7.04	1136a-4	11.14
881a-4	2.10	881a-43	4.02	1136a-5	11.15
881a-5	11.05	881a-44, 881a-45	—	1136a-6	11.16
881a-6	11.09	881a-46	6.15	1136a-7	—
881a-7	4.04	881a-47	1.03(6)	1136a-8	11.17
881a-8	8.08, 8.09	881a-48, 881a-49	—	1136a-9	11.18
881a-9	11.05	881a-50	6.05		
881a-10	8.10	881a-51	—		
881a-10a	8.11				

TABLE

Present Article to Former Articles

Showing where subject matter relating to savings and loan associations now covered in sections of article 852a was formerly covered in the Civil Statutes and Penal Code.

Present Section of Article 852a	Former Article	Present Section of Article 852a	Former Article	Present Section of Article 852a	Former Article
1.01, 1.02	—	5.07-5.10	—	8.14	881a-32
1.03	859, 860, 881a-1, 881a-34, 881a-47	5.11	881a-37	8.15	—
1.04	—	5.12	860, 861, 881a-26, 881a-37	8.16	867, 881a-16
2.01	852, 881a-29, 881a-30	5.13	881a-37	8.17	881a-18
2.02	856	5.14	881a-26	9.01	874, 875, 881a-57, 881a-58, 881a-60
2.03	—	5.15	881a-26	9.02	875, 879, 881a-58, 881a-60, 881a-63
2.04	870	5.16	—	9.03	881a-65
2.05-2.07	—	6.01-6.04	—	9.04	881a-57
2.08	881a-2	6.05	881a-50	9.05	880, 881a-64
2.09	881a-3	6.06	—	9.06	881a-57a
2.10	881a-4	6.07	881a-22	10.01	881a-54-A
2.11	881a-31	6.08	881a-23	10.02	881a-54-A
2.12	881a-29, 881a-67	6.09	881a-23	10.03	871, 881a-21a, 881a-54
2.13	—	6.10	—	10.04	867, 872, 881a-55
2.14	—	6.11	881a-24	11.01	—
3.01	854, 881a-32	6.12	881a-24	11.02	881a-52
3.02	—	6.13, 6.14	—	11.03	881b
3.03	881a-32	6.15	881a-46	11.04	—
3.04	—	6.16, 6.17	—	11.05	881a-5, 881a-9, 881a-61
3.05	855, 881a-21	6.18	881a-41	11.06	881a-28
3.06	881a-34	7.01, 7.02	—	11.07, 11.08	—
3.07	—	7.03	881a-41, 881a-42	11.09	881a-6, 881a-53
4.01	—	7.04	881a-41, 881a-42	11.10-11.12	—
4.02	881a-43	7.05	—	11.13	P.C. art. 1136a-3
4.03	—	8.01	864	11.14	P.C. arts. 1134, 1136a-4
4.04	881a-7	8.02	—	11.15	P.C. art. 1136a-5
4.05	—	8.03	881a-12	11.16	P.C arts. 1135, 1136a-6
5.01	881a-37	8.04, 8.05	—	11.17	P.C. art. 1136a-8
5.02	881a-37	8.06	881a-12	11.18	P.C. art. 1136a-9
5.03	881a-37	8.07	881a-12		
5.04	881a-37	8.08	863, 881a-17		
5.05	857, 881a-25, 881a-37	8.09	865, 881a-8		
5.06	881a-37	8.10	866, 881a-10		
		8.11	881a-10a		
		8.12	881a-11		
		8.13	881a-13		

Art. 852-881. Repealed. Acts 1963, 58th Leg., p. 269, ch. 113, § 2. Eff. Jan. 1, 1964.

See, now, savings and loan act, art. 852a, ante.

Arts. 881a-1 to 881a-69. Repealed. Acts 1963, 58th Leg., p. 269, ch. 113, § 2. Eff. Jan. 1, 1964.

Prior to repeal, articles 881a-23 and 881a-34 were amended by Acts 1953, 53rd Leg., p. 1028, ch. 425, § 1 and Acts 1957, 55th Leg., p. 1319, ch. 445, §§ 1, 2.

See, now, savings and loan act, art. 852a.

Art. 881b. Repealed. Acts 1963, 58th Leg., p. 269, ch. 113, § 2. Eff. Jan. 1, 1964

See, now, savings and loan act, art. 852a, § 11.03.

TITLE 25—CARRIERS

Art. 911b. Motor carriers and regulation by Railroad Commission—
Definitions

Definitions

Section 1.

(j) The term transporting property for compensation or hire shall include the furnishing during the same period of time of equipment and drivers to persons, firms, copartnerships, associations or joint-stock associations other than common carriers, contract carriers, or specialized motor carriers for use in their carrier operations, whether the equipment and drivers are furnished by the same or separate person, firm, copartnership, association or joint-stock association, and their lessees, receivers or trustees appointed by any court whatsoever owning, controlling, managing, operating or causing to be operated any motor-propelled vehicle. Added Acts 1963, 58th Leg., p. 1316, ch. 502, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Hire transportation of oil field equipment

Sec. 1c. The terms "Motor Carrier" and "Specialized Motor Carrier," as used in Section 1 of this Act, shall apply to and include all for hire transportation of oil field equipment, as defined in subdivision (i) of Section 1 of this Act, over the public highways of this State outside the corporate limits of cities or towns, irrespective of whether in the course of such transportation a highway between two (2) or more incorporated cities, towns or villages is traversed.

The provisions of this Section 1c shall not apply to or include vehicles used exclusively in the stringing of pipe for pipelines, nor shall this Section 1c apply to or include the transportation of water, drilling mud, petroleum and petroleum products in bulk, in tank trucks, when such substances are used in connection with the servicing of oil and gas wells, unless in the course of such transportation a highway between two (2) or more incorporated cities, towns or villages is traversed.

Nothing in this Section 1c shall in anywise repeal, alter, amend or affect any of the provisions of Chapter 290, Acts, Regular Session, Forty-seventh Legislature (being Sections 1a and 1b of this Act and now codified as Sections 1a and 1b of Article 911b, Vernon's Texas Civil Statutes). Added Acts 1963, 58th Leg., p. 929, ch. 359, § 1.

Wrecker type vehicles

Sec. 1¼. The term "Specialized Motor Carrier" and "Specialized Equipment" shall not include wrecker type vehicles used incidental to or as an adjunct to the carrying on of the primary business of buying, selling, exchanging, repairing, storing, servicing or wrecking motor vehicles. Added Acts 1963, 58th Leg., p. 28, ch. 21, § 1.

Effective 90 days after date of adjournment.

Effective 90 days after May, 24, 1963, date of adjournment.

Section 2 of the amendatory Act of 1955 repealed all conflicting laws and parts of laws to the extent of such conflict. Section 3 provided that partial invalidity should not affect the remaining portions of the Act.

Section 2 of the amendatory Act of 1957 repealed all conflicting laws and parts of laws to extent of such conflict. Section 3 was a severability clause.

Abolition of motor carrier fund and creation of railroad commission operating fund, see art. 6519b.

Art. 911d. Regulation of motor bus ticket brokers

Abolition of motor carrier fund and creation of railroad commission operating fund, see art. 6519b.

TITLE 26—CEMETERIES

Art. 912a—3. Receipt and disbursement of filing fees, examination fees, penalties and revenues

At the time of the filing of the statement of its perpetual care fund each cemetery filing same which serves a city the population of which is twenty-five thousand (25,000) inhabitants or less according to the last preceding Federal Census shall pay to the Banking Commissioner of Texas each year a filing fee of Twenty-Five Dollars (\$25.00), and each cemetery filing same which serves a city the population of which is greater than twenty-five thousand (25,000) inhabitants according to the last preceding Federal Census shall pay to the Banking Commissioner of Texas each year a filing fee of Fifty Dollars (\$50.00). Filing fees, examination fees, penalties and other revenues collected under this Act shall be received and disbursed by the Banking Department of Texas as provided by and in accordance with Article 12 of Chapter I, the Texas Banking Code of 1943, as amended, in the administration and enforcement of the laws relating to the operation of perpetual care cemeteries and to the creation, investment, and expenditure of cemetery perpetual care funds and for investigations either on its own initiative or on complaints made by others with reference to the operation of perpetual care cemeteries and the creation, investment, and expenditure of cemetery perpetual care funds; provided, that a reasonable part of the amount transferred each year of the biennium by the Banking Department to the General Revenue Fund, to cover the cost of governmental service rendered by other departments, may be made up from fees, penalties and other revenues collected under the provision of this Act. As amended Acts 1955, 54th Leg., p. 574, ch. 190, § 1; Acts 1963, 58th Leg., p. 1298, ch. 495, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 1298, ch. 495, which amended articles 912a—3, 912a—5, 912a—15 and 912a—31, provided in section 5 of the act that nothing in the act should be construed to relieve any cemetery association from any obligation imposed on it under the laws of Texas to deposit in its perpetual care fund any amount with respect to a sale by it of burial space prior

to July 1, 1963, nor to relieve any cemetery association from any obligation imposed on it under the laws of Texas to pay to the Banking Commissioner part or all of the cost of any examination made prior to Aug. 23, 1963, the effective date of the act.

Section 2 of the amendatory Act of 1955 was a severability clause.

Prepaid funeral services or merchandise, see art. 548b.

Art. 912a—5. Authority to corporations

Corporations may hereafter be formed only under this Act for the purpose of establishing, managing, maintaining, improving, and/or operating public or private cemeteries and conducting any one or more or all of the businesses of a public or private cemetery, including the selling of lots or parts of lots for burial purposes. Such corporations shall be formed either as non-profit corporations organized by cemetery lot owners, or in the manner as now provided under Section A or Section B, Article 1396—3.01, Texas Non-Profit Corporations Act, or as private corporations to be operated for profit, but not as both. The charter of each such corporation hereafter formed shall specifically state whether such corporation is to be a non-profit corporation, or whether such corporation is to be a private corporation to be operated for profit. The charter of each such corporation shall also specifically state whether the same is to operate a perpetual care or a non-perpetual care cemetery.

Corporations heretofore formed to maintain and operate cemeteries under statutory authority other than this Act, shall hereafter be governed by and shall be under the provisions of this Act, except where and only to the extent the charter or articles of incorporation of such associations or corporations conflict with this Act. It shall hereafter be unlawful for any corporation, copartnership, firm, trust, association, or individual to engage in or transact any of the businesses of a cemetery within this state except by means of a corporation duly organized for such purposes; provided, however, that the provisions of this Section shall not apply to any corporation heretofore chartered by the State of Texas to operate a cemetery, which under its charter, bylaws, or its dedication has heretofore provided for the creation of a perpetual care fund, and is maintaining the same in accordance with its trust agreement and the provision of this Act, and any such corporation may continue to operate a perpetual care cemetery in the same manner as if it had been incorporated under this Section without the necessity of amending its corporate charter, and provided further that the provisions of this Act shall not apply to any family, fraternal, or community cemetery not exceeding ten (10) acres in area, or any association of cemetery lot owners not operated for profit, or any religious corporation, church, religious society, denomination, corporation solely administering the temporalities of any religious denomination, society or church, now existing or hereafter organized, or any public cemetery belonging to the state, or any county, city or town within the state. As amended Acts 1963, 58th Leg., p. 1298, ch. 495, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Obligation of cemetery associations to deposit in perpetual care funds amounts with respect to sales of burial space prior

to July 1, 1963, and to pay banking commissioner costs of examinations made prior to August 23, 1963, see note under article 912a—3.

Art. 912a—15. Establishment and maintenance of perpetual care

Every cemetery association which has established and is now maintaining, operating or conducting a perpetual care cemetery and every association which shall hereafter establish, maintain, operate or conduct a perpetual care cemetery within this state, pursuant to this Act,¹ shall establish with a trust company or a bank with trust powers, no two (2) of the directors of which shall be directors of the cemetery association for the benefit of which such fund is established, an endowment fund of which the income only can be used for the general perpetual care of its cemetery and to place its cemetery under perpetual care; provided, however, that if there is no such trust company or bank with trust powers, qualified and willing to accept such trust funds at the regular fees established by the Texas Trust Act,² located within the county within which such cemetery association is located, then and only then, such endowment fund may be established with a Board of Trustees composed of three (3) or more persons, no two (2) of the trustees of which shall be directors of such cemetery association. The principal of such fund for perpetual care shall never be voluntarily reduced, but shall remain inviolable and shall forever be maintained separate and distinct by the trustee or trustees from all other funds. Any such trustee or trustees and the perpetual care trust operated by them shall in all respects be governed by the provisions of the Texas Trust Act. The principal of such fund shall be invested, from time to time reinvested, and kept invested as required by law for the investment of such funds, and the net income arising therefrom shall be used solely for the general care and maintenance of the property entitled to perpetual care in the cemetery for which the fund

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

is established, and shall be applied in such manner as the Board of Directors may from time to time determine to be for the best interest of the cemetery for which such fund is established, but shall never be used for improvement or embellishment of unsold property to be offered for sale. In the event the Board of Directors shall fail to generally care for and maintain that portion of the cemetery entitled to perpetual care, as hereinbefore provided, any five (5) or more lot owners in said cemetery whose lots are entitled to perpetual care shall have the right by suit for mandatory injunction or for a Receiver to take charge of and expend said net income, filed in the District Court of the county in which the cemetery is located, to compel the expenditure either by the Board of Directors or by such Receiver of the net income from the perpetual care fund for the purpose hereinabove set forth.

If a cemetery association is operating a cemetery without provision for perpetual care, and if it is authorized by law and wishes to operate said cemetery as a perpetual care cemetery, it shall so notify the Banking Commission of the State of Texas and shall, in accordance with the foregoing provisions hereof, establish a perpetual care fund equal to the amount which would have theretofore have been paid into such a fund, in accordance with provisions of this Act, if such cemetery had been operated as a perpetual care cemetery from and after the date of the first sale of burial space therein, or the minimum amount provided in Section 29 of this Act,³ whichever is the greater. If the amount of the perpetual care fund so established is the minimum amount provided in Section 29 of this Act, such cemetery association or corporation shall be entitled to a credit against amounts hereafter required by the provisions of this Act to be paid by it unto such perpetual care fund equal to the excess of the amount of such perpetual care fund, as originally established by it, over what would have been the amount thereof if its amount had been determined without regard to Section 29 of this Act.

In establishing its perpetual care trust fund the association may from time to time adopt plans for the general care, maintenance and embellishment of its cemetery.

A cemetery association which has established a perpetual care fund may also take, receive, and hold therefor and as a part thereof or as an incident thereto any property, real, personal or mixed, bequeathed, devised, granted, given or otherwise contributed to it therefor.

The perpetual care trust fund authorized by this Section and all sums paid therein or contributed thereto are, and each thereof is hereby, expressly permitted and shall be and be deemed to be for charitable and eleemosynary purposes. Such perpetual care shall be deemed to be a provision for the discharge of a duty due from the person or persons contributing thereto to the persons interred and to be interred in the cemetery and likewise a provision for the benefit and protection of the public by preserving and keeping cemeteries from becoming places of disorder, reproach, and desolation in the communities in which they are situated. No payment, gift, grant, bequest, or other contribution for such general perpetual care shall be or be deemed to be invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating said trust, nor shall said fund or any contribution thereto be or be deemed to be invalid as violating any law against perpetuities or the suspension of the power of alienation of title to property.

Each perpetual care cemetery shall deposit in its perpetual care trust fund an amount equivalent to such amount as may have been stipulated

in any contract under which perpetual care property was sold prior to March 15, 1934, plus a minimum of twenty cents (20¢) per square foot of ground area sold or disposed of as perpetual care property after March 15, 1934, until such fund reaches a minimum of One Hundred Thousand Dollars (\$100,000.00), after which each such cemetery shall deposit an amount equivalent to a minimum of ten cents (10¢) per square foot of ground area sold or disposed of as perpetual care property after March 15, 1934, until September 3, 1945. Each such cemetery shall deposit in its perpetual care trust fund an amount equivalent to a minimum of twenty cents (20¢) per square foot of ground area sold or disposed of as perpetual care property after September 3, 1945, until July 1, 1963. A minimum of Fifteen Dollars (\$15.00) per each crypt interment right for mausoleum interment sold or disposed of as perpetual care property and a minimum of Five Dollars (\$5.00) per each niche interment right for columbarium interment sold or disposed of as perpetual care property between March 15, 1934, and July 1, 1963, shall also be placed in such perpetual care trust fund. From and after July 1, 1963, each such cemetery shall deposit in its perpetual care trust fund an amount equivalent to a minimum of fifty cents (50¢) per square foot of ground area sold or disposed of as perpetual care property after said date. A minimum of Forty Dollars (\$40.00) per each crypt interment right for mausoleum interment sold or disposed of as perpetual care property, except that on crypts accessible only through another crypt the minimum requirement shall be Twenty Dollars (\$20.00) per each such crypt, and a minimum of Ten Dollars (\$10.00) per each niche interment right for columbarium interment sold or disposed of subsequent to July 1, 1963, shall also be placed in such perpetual care trust fund. Such minimum requirements shall apply to all property in which the exclusive right of sepulture has been sold and paid for, whether used for interment purposes or not.

After July 1, 1963, each agreement for the sale of burial space in a perpetual care cemetery shall set out separately the part of the aggregate amount agreed to be paid by the purchaser which is to be deposited in the perpetual care trust fund. If the aggregate amount agreed to be paid by the purchaser is payable in installments, all amounts paid thereon shall be applied, first, to the part thereof not required to be deposited in the perpetual care trust fund, to the extent thereof, and the remainder shall, when received by the seller, be deposited in the perpetual care trust fund. Any funds required to be deposited in its perpetual care trust fund by a seller of burial space shall be so deposited not later than ten (10) days after the end of the calendar month during which they are received. If the seller shall fail to so deposit such funds within the time required hereunder, it shall be liable for and the Banking Commissioner shall collect as a penalty the sum of Ten Dollars (\$10.00) per day for the period of such failure, and, upon the relation of the Banking Commissioner of the refusal of the seller to pay to the Banking Commissioner such penalty, the Attorney General shall institute a suit to recover said penalty and for costs and such other relief by the state as in the judgment of the Attorney General is proper and necessary. No cemetery shall hereafter operate as a perpetual care, permanent maintenance, or free care cemetery until the provisions hereof are complied with.

The amount to be deposited in the perpetual care trust fund shall be separately shown on the original purchase agreement and a copy thereof shall be delivered to the purchaser. In the sale of burial space, no commission shall be paid a broker or salesman on the amount to be deposited in the fund.

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

Notwithstanding any other provision of the laws of the State of Texas or any provision in a trust agreement executed for the purpose of providing perpetual care for a cemetery, such trust agreement may, by agreement entered into between the cemetery association and the trustee or trustees acting under such trust agreement, be amended so as to include any provision which is not inconsistent with any provision in this Act. As amended Acts 1963, 58th Leg., p. 1298, ch. 495, § 3.

¹ Articles 912a—1 et seq.; Vernon's Ann.P.C. art. 705b—1.

² Articles 7425b—1 et seq.

³ Article 912a—29.

Effective 90 days after May 24, 1963, date of adjournment.

Obligation of cemetery associations to deposit in perpetual care funds amounts with respect to sales of burial space prior

to July 1, 1963, and to pay banking commissioner costs of examinations made prior to August 23, 1963, see note under article 912a—3.

Art. 912a—31. Examinations of cemetery associations' perpetual care trust funds and records; fees and expenses

It shall be the duty of the Banking Commissioner to examine, or cause to be examined, each of such perpetual care cemetery associations annually or as often as necessary, for which the examined association shall pay to the Commissioner a fee not to exceed Fifty Dollars (\$50.00) per day or fraction thereof, for each examiner, the total fee not to exceed One Hundred Fifty Dollars (\$150.00) for any one regular examination.

If in any case the conditions existing in any such association are found to be such as to necessitate an additional examination or a prolonged audit to ascertain the true status of its affairs, the whole expense of such additional examination or such prolonged audit shall be defrayed by such association. Acts 1945, 49th Leg., p. 559, ch. 340, § 31 added Acts 1955, 54th Leg., p. 574, ch. 190, § 1, as amended Acts 1963, 58th Leg., p. 1298, ch. 495, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Obligation of cemetery associations to deposit in perpetual care funds amounts with respect to sales of burial space prior

to July 1, 1963, and to pay banking commissioner costs of examinations made prior to August 23, 1963, see note under article 912a—3.

TITLE 28—CITIES, TOWNS AND VILLAGES

CHAPTER ONE—CITIES AND TOWNS

<p>Art. 966d—1. Validation of incorporation; incorrect description; excessive area; elections.</p> <p>970a. Municipal Annexation Act.</p> <p>Sec.</p> <ol style="list-style-type: none"> 1. Short title. 2. Definitions. 3. Establishing extraterritorial jurisdiction. 4. Extension of subdivision ordinance within the extraterritorial jurisdiction. 5. Industrial districts. 	<p>Art. 970a. Municipal Annexation Act—Cont'd</p> <p>Sec.</p> <ol style="list-style-type: none"> 6. Notice and hearing—annexation proceedings.* 7. Limitation on annexations. 8. Limitations on creation of political subdivisions within the extraterritorial jurisdiction. 9. Petition for annexation or services. 10. Disannexation. <p>974d—10. Validation of incorporation; elections; governmental proceedings; adoption of home rule charter; exceptions; cities, towns or villages.</p>
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Art. 966d—1. Validation of incorporation; incorrect description; excessive area; elections

Section 1. In each instance where an election has been held for the purpose of incorporating a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village, incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof, as he finds such boundaries to exist at the time of entering such order, and finding and declaring the names of the officials of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2. Any city, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a duly incorporated city with the boundaries as defined in such order, and the act of the governing body thereof in accepting the provisions of Title 28, Revised Civil Statutes, as amended, relating to cities and towns is hereby validated and the officials named in such order are hereby declared to have been the mayor, aldermen and city secretary of such city at the time of the entry of said order, and all elections held for the election of city officials are hereby validated and ratified.

Sec. 3. This Act shall not apply to any municipality which is now involved in litigation in any district court of this state, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization, incorporation or creation of such municipality is attacked. Provided further, that this Act shall not apply to any municipality which has heretofore been declared invalid by a court of competent jurisdiction of this state or which may have been established and which was later returned to its original status. Acts 1962, 57th Leg., 3rd C.S., p. 151, ch. 51, §§ 1-3.

Art. 970a. Municipal Annexation Act**Short title**

Section 1. This Act is known and may be cited as the "Municipal Annexation Act."

Definitions

Sec. 2. For the purposes of this Article, the following words shall have the meanings ascribed to them:

A. "City" or "Cities" means any incorporated city, town or village in the State of Texas.

B. "Voters" means those persons qualified to vote under the laws of the State of Texas.

C. "Written consent" means consent expressed by an ordinance or resolution.

Establishing extraterritorial jurisdiction

Sec. 3. A. In order to promote and protect the general health, safety, and welfare of persons residing within and adjacent to the cities of this State, the Legislature of the State of Texas declares it to be the policy of the State of Texas that the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of any city, to the extent described herein, shall comprise and be known as the extraterritorial jurisdiction of the various population classes of cities in the State and shall be as follows:

(1) The extraterritorial jurisdiction of any city having a population of less than five thousand (5,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within one half ($\frac{1}{2}$) mile of the corporate limits of such city.

(2) The extraterritorial jurisdiction of any city having a population of five thousand (5,000) or more inhabitants, but less than twenty-five thousand (25,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within one (1) mile of the corporate limits of such city.

(3) The extraterritorial jurisdiction of any city having a population of twenty-five thousand (25,000) or more inhabitants, but less than fifty thousand (50,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within two (2) miles of the corporate limits of such city.

(4) The extraterritorial jurisdiction of any city having a population of fifty thousand (50,000) or more inhabitants, but less than one hundred thousand (100,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within three and one half ($3\frac{1}{2}$) miles of the corporate limits of such city.

(5) The extraterritorial jurisdiction of any city having a population of one hundred thousand (100,000) or more inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within five (5) miles of the corporate limits of such city.

B. In the event that on the effective date of this Act the area under the extraterritorial jurisdiction of a city overlaps an area under the extraterritorial jurisdiction of one or more other cities, such overlapped area may be apportioned by mutual agreement of the governing bodies of the cities concerned. Such agreement shall be in writing and shall be approved by an ordinance or resolution adopted by such governing bodies.

At any time after one hundred and eighty (180) days from the effective date of this Act, any city having an extraterritorial claim to such overlapping area shall have authority to file a plaintiff's petition in the district court of a judicial district, within which is located the largest city having an extraterritorial claim to such overlapped area, naming as parties defendant all cities having a claim to such overlapped area and praying that such overlapped area, to which it has mutual claim, be apportioned among the cities concerned. In effecting such apportionment, the district court shall consider the population densities and patterns of growth, transportation, topography, and land utilization in the cities concerned and in the overlapped area. The territory so apportioned to a city shall be contiguous to the extraterritorial jurisdiction of such city. In the event the extraterritorial jurisdiction of a city is totally overlapped, the territory so apportioned to such city shall be contiguous to the corporate boundaries of such city. Such territory so apportioned shall be in a substantially compact shape. Such overlapped area shall be apportioned among such cities in the same ratio (to one decimal) as the respective populations of the cities concerned bear to one another, but in such apportionment no city shall receive less than one-tenth ($\frac{1}{10}$) of such overlapping area. Provided, however, that any apportionment made under the provisions of this Subsection shall give consideration to existing property lines, and no tract of land or adjoining tracts of land, under one ownership upon the effective date of this Act and not exceeding one hundred and sixty (160) acres in size shall be apportioned so as to be within the extraterritorial jurisdiction of more than one city unless the landowner consents in writing to such apportionment.

C. When a city annexes additional territory, the extraterritorial jurisdiction of such city shall expand in conformity with such annexation and shall comprise an area around the new corporate limits of the city consistent with Subsection A of this Section. In addition, the extraterritorial jurisdiction of the city may be extended beyond the distance limitations imposed by Subsection A of this Section to include therein any territory contiguous to the otherwise existing extraterritorial jurisdiction of such city, provided the owner or owners of such contiguous territory request such expansion. However, in no event shall the expansion of the extraterritorial jurisdiction of a city, through annexation, or upon request, or because of increase in population of the city, conflict with the existing extraterritorial jurisdiction of another city. The extraterritorial jurisdiction of a city shall not be reduced without the written consent of the governing body of such city, except in cases of judicial apportionment of overlapping extraterritorial jurisdictions.

D. No city shall impose any tax in the area under the extraterritorial jurisdiction of such city, by reason of including such area within such extraterritorial jurisdiction.

Extension of subdivision ordinance within the extraterritorial jurisdiction

Sec. 4. The governing body of any city may extend by ordinance to all of the area under its extraterritorial jurisdiction the application of such city's ordinance establishing rules and regulations governing plats and the subdivision of land; provided, that any violation of any provision of any such ordinance outside the corporate limits of the city, but within such city's extraterritorial jurisdiction, shall not constitute a misdemeanor under such ordinance nor shall any fine provided for in such ordinance be applicable to a violation within such extraterritorial jurisdiction. However, any city which extends the application of its ordinance establishing rules and regulations governing plats and the subdivision of land to the area under its extraterritorial jurisdiction

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

shall have the right to institute an action in the district court to enjoin the violation of any provision of such ordinance in such extraterritorial jurisdiction, and the district court shall have the power to grant any or all types of injunctive relief in such cases.

Industrial districts

Sec. 5. The governing body of any city shall have the right, power, and authority to designate any part of the area located in its extraterritorial jurisdiction as an industrial district, as the term is customarily used, and to treat with such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any city is the permissive right and power to enter into contracts or agreements with the owner or owners of land in such industrial district to guarantee the continuation of the extraterritorial status of such district, and its immunity from annexation by the city for a period of time not to exceed seven (7) years, and upon such other terms and considerations as the parties might deem appropriate. Such contracts or agreements shall be evidenced in writing and may be renewed or extended for successive periods not to exceed seven (7) years each by such governing body and the owner or owners of land in such industrial district. Existing contracts or agreements of such nature, recognized in or evidenced by an ordinance or resolution of the governing body of the contracting town or city, are hereby in all respects validated as of the date they were made, for the extent of their term or for seven (7) years from the date made, whichever is shorter.

Notice and hearing—annexation proceedings

Sec. 6. Before any city may institute annexation proceedings, the governing body of such city shall provide an opportunity for all interested persons to be heard at a public hearing to be held not more than twenty (20) days nor less than ten (10) days prior to institution of such proceedings. Notice of such hearing shall be published in a newspaper having general circulation in the city and in the territory proposed to be annexed. The notice shall be published at least once in such newspaper not more than twenty (20) days nor less than ten (10) days prior to the hearing. Annexation of territory by a city shall be brought to completion within ninety (90) days of the date on which the governing body of such city institutes annexation proceedings or be null and void. Provided, however, any period of time during which a city is restrained or enjoined from annexing any such territory by a court of competent jurisdiction shall not be computed in such ninety (90) day limitation period.

Limitation on annexations

Sec. 7. A. A city may annex territory only within the confines of its extraterritorial jurisdiction; provided, however, that such limitation shall not apply to the annexation of property owned by the city annexing the same.

B. A city may annex in any one calendar year only territory equivalent in size to ten per cent (10%) of the total corporate area of such city as of the first day of that calendar year. In computing the total amount of territory which may be annexed in any one (1) calendar year, there shall be excluded from such ten per cent (10%) the following: (1) territory caused to be annexed by a request of a majority of the qualified resident voters in the territory and the owners of fifty per cent (50%)

or more of the land in the territory, (2) territory annexed which is owned by the city, the county, the State, or the Federal Government which is used for a public purpose, (3) territory annexed at the request of a majority of the voters residing in such territory, and (4) territory annexed at the request of the owner or owners thereof.

C. In the event a city fails in any calendar year or years to annex the total amount of territory which it is authorized to annex in such calendar year or years, such unused allocation may be carried over and used in subsequent calendar years. A city, utilizing the power granted under this Subsection, may not annex in any one calendar year an amount of territory in excess of thirty per cent (30%) of its total area as of the first day of the calendar year.

D. All annexation proceedings by cities which are pending on or instituted after March 15, 1963, shall be subject to the limitations as to size and extent of area imposed by this Act and shall be brought to completion within ninety (90) days after the effective date of this Act or be null and void. Provided, however, any period of time during which a city is enjoined or restrained from completing such annexation proceedings by a court of competent jurisdiction shall not be computed in such ninety (90) day limitation period.

E. No annexation shall change or have any effect on switching limits of railroads or any rates thereof.

**Limitations on creation of political subdivisions within
the extraterritorial jurisdiction**

Sec. 8. A. No city may be incorporated within the area of the extraterritorial jurisdiction of any city without the written consent of the governing body of such city. Should such governing body refuse to grant permission for the incorporation of such proposed city, a majority of the resident voters, if any, in the territory of such proposed city and the owners of fifty per cent (50%) or more of the land in such proposed city may petition the governing body of such city and request annexation by such city. Should the governing body of such city fail or refuse to annex the area of such proposed city within six (6) months from the date of receipt of such petition, proof of such failure or refusal shall constitute authorization for the incorporation of such proposed city insofar as the purposes of this Subsection are concerned. Written consent or authorization for the incorporation of a proposed city, insofar as the provisions of this Subsection are concerned, shall mean only authorization to initiate incorporation proceedings for such proposed city as otherwise provided by law. The provisions of this Subsection shall apply only to the area of a proposed city which lies within the extraterritorial jurisdiction of such city.

B. No political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer services may be created within the area of the extraterritorial jurisdiction of any city without the written consent of such city. Should the governing body of such city fail or refuse to grant permission for the creation of such proposed political subdivision within sixty (60) days after receipt of a written request for same, a majority of the qualified resident voters in the territory of such proposed political subdivision and the owner or owners of fifty per cent (50%) or more of the land in such proposed political subdivision may petition the governing body of such city and request such city to make available to such territory the water or sanitary sewer service contemplated by the pro-

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posed political subdivision. Should the governing body of the city and a majority of the qualified resident voters and the owner or owners of fifty per cent (50%) or more of the land in such proposed political subdivision fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within six (6) months after receipt of such petition, such failure shall constitute authorization for the creation of the proposed political subdivision insofar as the provisions of this Subsection are concerned. Authorization for the creation of the proposed political subdivision, insofar as the provisions of this Subsection are concerned, shall mean only authorization to initiate proceedings to create such political subdivision as otherwise provided by law. The provisions of this Subsection shall apply only to the area of such proposed political subdivision which lies within the extraterritorial jurisdiction of such city.

This Subsection shall not apply to any such proposed political subdivision where a valid petition seeking its creation has been filed with the county clerk or other legally designated authority prior to the effective date of this Act.

C. If authorization to initiate incorporation proceedings for a proposed city is obtained under the provisions of Subsection A of this Section, such incorporation must be initiated within six (6) months of the date of such authorization and such incorporation must be finally completed within eighteen (18) months of the date of such authorization. Failure either to initiate such incorporation proceedings or to finally complete the incorporation of such proposed city within such allotted periods of time shall terminate such authorization. If authorization to initiate proceedings to create a proposed political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial purposes or the furnishing of sanitary sewer services is obtained under the provisions of Subsection B of this Section, such proceedings seeking the creation of such a political subdivision must be initiated within six (6) months of the date of such authorization and such proposed political subdivision must be finally completed within eighteen (18) months of the date of such authorization. Failure either to initiate such proceedings seeking the creation of such political subdivision or to finally complete the creation of such proposed political subdivision within such allotted periods of time shall terminate such authorization.

Petition for annexation or services

Sec. 9. The petition for annexation provided for in Subsection A of Section 8 of this Article and the petition requesting the availability of services provided for in Subsection B of Section 8 of this Article shall be made by the voters and landowners signing and presenting to the city secretary or clerk a written petition requesting annexation or requesting such services. The signatures to the petition need not be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil, and each signer signing the petition as a voter shall sign his or her name as it appears on the official copy of the current poll list or an official copy of the current list of exempt voters and each voter shall note on such petition his or her residence address and the precinct number and serial number that appear on his or her poll tax receipt, exemption certificate, or such other voter registration certificate that may be provided for by law. Each landowner signing the petition shall note thereon opposite his or her name the approximate total acreage he or she owns within the territory. The petition shall

describe the territory to be annexed or the territory to which such services are requested to be made available and have attached to it a plat of the territory. Prior to circulating the petition for annexation or such services among the voters and landowners, notice of the petition shall be given by means of posting for ten (10) days a copy of the petition in three (3) public places in the territory and by publishing it for one (1) issue in a newspaper of general circulation serving the territory at least fifteen (15) days prior to the circulation of the petition. Proof of posting and publication of the notice shall be made by attaching to the petition presented to the city secretary or clerk: (1) the sworn affidavit of any voter who signed the petition, stating the places where and the dates when the petition was posted; and (2) the sworn affidavit of the publisher of the newspaper setting forth the name of the newspaper and the issue and date when the notice was published; (3) in addition, there shall be attached to the petition the sworn affidavit of three (3) or more voters signing the petition, if there be that many, stating the total number of voters residing in the territory and the approximate total acreage within the territory.

Disannexation

Sec. 10. A. From and after the effective date of this Act, any city annexing a particular area shall within three (3) years of the effective date of such annexation provide or cause to be provided such area with governmental and proprietary services, the standard and scope of which are substantially equivalent to the standard and scope of governmental and proprietary services furnished by such city in other areas of such city which have characteristics of topography, patterns of land utilization, and population density similar to that of the particular area annexed. In the event a city fails or refuses to provide or cause to be provided such services within the time specified herein, a majority of the qualified voters residing within such particular annexed area and the owners of fifty per cent (50%) or more of the land in such particular annexed area, which area must adjoin the outer boundaries of the city, may petition the governing body of such city to disannex such particular annexed area. Should the governing body of such city fail or refuse to disannex such particular annexed area within ninety (90) days after receipt of a valid petition, any one or more of the signers of such petition may, within sixty (60) days of the date of such failure or refusal, file in a district court of the district in which such city is located an action requesting that the particular annexed area be disannexed. Upon the filing of an answer in such cause by the governing body of such city, and upon application of either party, the case shall be advanced and heard without further delay, all in accordance with the Texas Rules of Civil Procedure. Upon hearing of the case, if the district court finds that a valid petition was filed with the city, that the particular annexed area is otherwise eligible for disannexation under the provisions of this Section, and that the standard and scope of governmental and proprietary services provided or caused to be provided to such particular annexed area are not substantially equivalent to the standard and scope of governmental and proprietary services provided or caused to be provided other areas of such city having characteristics of topography, patterns of land utilization and population density similar to that of the particular annexed area, it shall enter an order disannexing such particular annexed area. Provided, however, that the right of disannexation provided for in this Section shall not be available to any particular annexed area which was lawfully within the city limits of a city at the time of the approval or sale of any general obligation bonds of the city

if proceeds therefrom have been expended for capital improvements to serve such particular annexed area, so long as any such bonds are outstanding.

B. When any such area is disannexed under the provisions of this Section, it shall not again be annexed within one (1) year of such disannexation, and, if it is again annexed within three (3) years of disannexation, the period for affording such services as are required by this Section shall be one (1) year from reannexation rather than three (3) years as in other cases.

C. The request and petition for disannexation provided for in Subsection A of this Section of this Act shall be made by the qualified voters and landowners signing and presenting to the city secretary a written petition requesting disannexation. The signatures to the petition need not be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil, and each signer signing the petition as a qualified voter shall sign his or her name as it appears on the official copy of the current poll list or an official copy of the current list of exempt voters and each qualified voter shall note on such petition his or her residence address and the precinct number and serial number that appear on his or her poll tax receipt, exemption certificate, or such other voter registration certificate that may be provided for by law. Each landowner signing the petition shall note thereon opposite his or her name the approximate total acreage he or she owns within the particular annexed area. The petition shall describe the particular annexed area to be disannexed and have attached to it a plat of the particular annexed area. Prior to circulating the petition for disannexation among the qualified voters and landowners, notice of the petition shall be given by means of posting for ten (10) days a copy of the petition in three (3) public places in the particular annexed area and by publishing it for one (1) issue in a newspaper or newspapers of general circulation serving the particular annexed area at least fifteen (15) days prior to the circulation of the petition. Proof of posting and publication of the notice shall be made by attaching to the petition presented to the city secretary: (1) the sworn affidavit of any qualified voter who signed the petition stating the places where and the dates when the petition was posted, and (2) the sworn affidavit of the publisher of the newspaper or newspapers setting forth the name of the newspaper or newspapers and the issue and date in which the notice was published. In addition, there shall be attached to the petition the sworn affidavit of three (3) or more qualified voters signing the petition, if there be that many, stating the total number of qualified voters residing in the particular annexed area and the approximate total acreage within such particular annexed area. Acts 1963, 58th Leg., p. 447, ch. 160, art. I.

Cities on navigable streams, extension of limits, see art. 1183.

Platting and recording subdivisions or additions, see art. 974a.

Home rule cities, exchange of territory with other cities, see art. 1175, subd. 2.

Art. 974d—10. Validation of incorporation; elections; governmental proceedings; adoption of home rule charter; exceptions; cities, towns or villages

Section 1. The incorporation proceedings of any city, town or village in this state heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the Aldermanic form of government or the Commission form of government, and which have

functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation and the incorporation of any such city, town or village shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may have not been in accordance with law.

Sec. 2. In each instance where an election has been held for the purpose of incorporating a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof, as such boundaries were originally intended, together with territory annexed prior to any such order, and finding and declaring the names of the officials of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town, or village shall be known by the name specified in such order.

Sec. 3. All governmental proceedings performed by the governing body of any such city, town or village and all offices thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the respective date of such proceedings. Any election held in such city, town or village resulting favorably to the issuance of bonds is hereby validated, and the governing body thereof is authorized to proceed with the issuance of such bonds.

Sec. 4. The proceedings for the adoption and adopting or attempting to adopt a Home Rule Charter for any and each city or town in this state where any legal step required to make such adoption effective has been omitted or was done in an irregular manner and where a majority of the qualified voters of said city voting at said election voted in favor of the adoption of any and each such charter are in all things validated, ratified and confirmed, and such charter shall constitute the Home Rule Charter of said city and each such city under the Constitution and laws of this state. All elections held under the provisions of said charter for the purpose of electing members of the governing body of each such city and the assumption of office by such elected members are hereby in all things validated.

Sec. 5. This Act shall not apply to any city, town or village which is now or was heretofore involved in litigation questioning in any District Court of this state, the Court of Civil Appeals, or the Supreme Court of Texas, the validity or legality of the charter, organization, incorporation, boundaries, extension of boundaries, or creation of such city, town or village. Nor shall this Act validate any act or proceedings of any city, town or village which upon the effective date of this Act is the subject of litigation in a court of competent jurisdiction. This Act shall neither validate any act or proceedings of any city, town, or village done subsequent to October 1, 1962, nor shall the Act operate to affect any ordinance or ordinances annexing territory that have been passed on first or subsequent readings by a city, town or village prior to the passage of this Act. This Act shall not apply to any such extensions, acts or proceedings of any city, town or village if such extensions, acts or proceedings have been later rescinded.

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Sec. 6. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, or for other reasons void or unconstitutional, it shall not affect any other word, phrase, clause, sentence or part of this Act. Acts 1963, 58th Leg., p. 609, ch. 222.

CHAPTER TWO—OFFICERS AND THEIR ELECTION

Art.
981, 982. Repealed.

Art.
984-986. Repealed.

Art. 980. [787] [390] [347] Conduct of the election

The ballots for each ward shall be taken separately. Except as otherwise provided in this chapter, the election shall be held and the returns thereof shall be made and canvassed in accordance with the general laws pertaining to municipal elections, and the persons receiving the highest number of votes for the respective offices shall be declared elected. In the first election held hereunder, the two persons from the same ward receiving the highest number of votes in the city for aldermen of the wards for which they are candidates shall be declared elected aldermen of such wards. *Id.*; Acts 1963, 58th Leg., p. 1017, ch. 424, § 119.

County election precincts formed by commissioners court, see V.A.T.S. Election Code, art. 2.04. Election precincts for municipal elections, see V.A.T.S. Election Code, art. 2.05.

Arts. 981, 982. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, §§ 119, 121

Arts. 984-986. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, §§ 119, 121

Art. 989. [797] [396] [352] Vacancy

In case of a vacancy from any cause in the office of mayor or alderman, the city council shall order a special election to fill such vacancy. The special election shall be ordered in accordance with the provisions of the general laws pertaining to special elections to fill vacancies in public office, and shall be held in accordance with the general laws pertaining to municipal elections. In case of a vacancy in any other office in the city, the mayor or acting mayor shall fill such vacancy by appointment, to be confirmed by the city council. Acts 1887, p. 41; G.L. vol. 9, p. 839; Acts 1963, 58th Leg., p. 1017, ch. 424, § 119.

Commission form of government, vacancies, see art. 1159.

Failure to qualify as creating vacancy, see art. 983.

Conduct of business by assistants or deputies when vacancy occurs, see art. 6252-1.

Special election, see art. 990.

Towns and villages, filling vacancies, see art. 1146.

CHAPTER FOUR—THE CITY COUNCIL

Art. 1015c. Parks and recreation projects

Park facilities, construction in cities over 650,000 population, see art. 6081j.

Art. 1015c—1. Recreational programs and facilities; establishments by counties, cities and towns, jointly or singly, authorized

Park facilities, construction in cities over 650,000 population, see art. 6081j.

CHAPTER FIVE—TAXATION

Art. 1027c—1. Validation of ad valorem tax levies in incorporated cities and towns; exceptions.

Art. 1066b. Assessor, collector and equalization board acting for included municipality or district.

Sec. 1a. Adoptions of laws, ordinances and provisions applicable to taxes.

Art. 1027c—1. Validation of ad valorem tax levies in incorporated cities and towns; exceptions

Section 1. All levies for ad valorem taxes heretofore made by the governing bodies of any incorporated city or town in this State incorporated under the General Laws of this State (commonly referred to as General Law Cities), which are unenforceable because such levies were made and adopted by resolution, motion or other informal action instead of having been made by ordinance, or which are unenforceable because of the failure of the governing bodies of such incorporated cities or towns to appoint the proper statutory Board of Equalization, as required by the laws of this State, or where the governing bodies of such incorporated cities or towns have acted as a Board of Equalization in the fixing of the valuation of taxable property for ad valorem taxes within such incorporated city or town and which levies are otherwise legally enforceable, are hereby validated and the same are hereby declared enforceable the same as though they had been made and adopted originally by ordinance duly passed and/or as heard before a properly and legally appointed Board of Equalization. Provided this Act shall not validate any taxes levied for street paving, sidewalk, curb and gutter work, or similar work, and no liens shall attach to any real property by virtue of such levy. Acts 1963, 58th Leg., p. 766, ch. 293.

Art. 1060a. Application of Title 122 to school districts and municipal corporations

(a) All of the provisions of Title 122,¹ of the Revised Civil Statutes of Texas of 1925, be, and the same are made available insofar as same may be applicable and necessary to all school districts and municipal corporations organized under any general or special law of this State and which have power and authority to levy and collect their own taxes, and that each of such school districts and such municipal corporations shall have the benefit of all liens and remedies for the security and collection of taxes due them as is provided in said Title in the case of taxes due the State and county, and as otherwise provided by the Gen-

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eral Laws of this State in the case of taxes due incorporated cities and towns. Acts 1935, 44th Leg., p. 666, ch. 281, § 1; Acts 1963, 58th Leg., p. 969, ch. 392, § 1.

¹ Articles 7041-7359.

Art. 1066b. Assessor, collector and equalization board acting for included municipality or district

Adoptions of laws, ordinances and provisions applicable to taxes

Sec. 1a. Whenever the governing body of any municipality or district taking advantage of this Act shall deem it necessary or expedient, said governing body may, by ordinance or resolution, adopt all or any part of the laws of the State of Texas, charters, ordinances, liens and other provisions applicable to the levying, assessing and collecting of taxes by the district or municipality rendering the tax service. All said laws, charters, ordinances, liens and other provisions are hereby conferred on and made available to any municipality or district taking advantage of this Act in order that the district or municipality rendering the service and its Tax Assessor, Board of Equalization and Tax Collector may levy, assess and collect said municipality's or district's taxes and may assess and collect the taxes of the municipality or district for which it is rendering the services, in a uniform and economical manner. Added Acts 1963, 58th Leg., p. 1130, ch. 435, § 1.

Validation of ordinances, resolutions and acts

Sec. 2a. All ordinances, resolutions and acts of the Governing Board, Tax Assessor, Board of Equalization and Tax Collector of any incorporated city, town or village, independent school district, drainage district, water control and improvement district, water improvement district, navigation district, road district, or any other municipality or district in the State of Texas operating under and by virtue of the power and authority granted under Chapter 351, Acts of the 49th Legislature, Regular Session, 1945, as amended, in the levying, assessing and collecting of taxes, are hereby in all things validated. All taxes levied, assessed and/or collected and all liens for said taxes arising and accruing out of the laws of the State of Texas or any charter, ordinance or resolution of any of the above-named municipalities and districts are hereby in all things validated. As amended Acts 1963, 58th Leg., p. 1130, ch. 435, § 2.

Districts wholly within incorporated cities, taxes, see art. 8280-10.

Water control and preservation districts, taxes, see art. 7870 et seq.

Water control and improvement districts, tax assessor and collector, see art. 7880-54.

CHAPTER NINE—STREET IMPROVEMENTS

Art. 1093. [1013] Notice of hearing

No assessments of any part of the cost of such improvement shall be made against any property abutting thereon or its owner, until a full and fair hearing shall first have been given to the owners of such property, preceded by a reasonable notice thereof given to said owners, their agents, or attorneys. Such notice shall be by advertisement inserted at least three times in some newspaper published in the city, town or village where such tax is sought to be levied, if there be such a paper there; if not, then in the nearest to said city, town or village,

or general circulation in the county in which said city is located; and, in addition, if the owner of such abutting property is a railway or street railway, written notice of the assessment and hearing thereon shall be served by either delivering in person to the local agent or by depositing the same in the city post office, postage paid, and properly addressed to the offices of the railway or street railway at the address as it appears on the last approved city tax roll; and such written notice, if required, shall be mailed or delivered, and the first publication shall be made, at least ten (10) days before the date of the hearing. The governing body may provide for additional notice cumulative of that notice specified above. *Id.*; Acts 1963, 58th Leg., p. 346, ch. 130, § 1.

Art. 1098. Notice, etc.

No such assessment or reassessment shall be made without at least ten (10) days written notice and an opportunity to be heard on such question of special benefits given to the owner or owners of such abutting property. Such notice may be served either personally or by publication in some newspaper of general circulation, published in said city or town; and, when any such abutting property is owned by a railway or street railway, notice shall be made both by such publication and by delivery of written notice, either in person to its local agent, or by depositing said written notice in the city post office, postage paid, and properly addressed to the offices of the railway or street railway at the address as it appears on the last approved city tax roll, and the governing body of any such city or town shall have power, not inconsistent herewith, to provide for all procedure, rules, and regulations necessary or proper for such notice and hearing and to levy, assess, and collect such assessment or reassessment. *Id.*; Acts 1963, 58th Leg., p. 348, ch. 132, § 1.

Art. 1105b. Street improvements and assessments in cities having more than 1000 inhabitants**Notice and hearing; contents of notice**

Sec. 9. No assessment herein provided for shall be made against any abutting property or its owners, nor against any railway, street railway or interurban, or owner, until after notice and opportunity for hearing as herein provided, and no assessment shall be made against any abutting property or owners thereof in excess of the special benefits of such property, and its owners in the enhanced value thereof by means of such improvements as determined at such hearing. Such notice shall be by advertisement inserted at least three (3) times in some newspaper published in the city where such special assessment tax is to be imposed, if there be such a paper; if not, then the nearest to such city of general circulation in the county in which such city is located; and, if such abutting property is owned by a railway or street railway, additional written notice of the assessment and the hearing thereon shall be delivered either in person to its local agent, or by depositing said written notice in the city post office, postage paid, and properly addressed to the offices of the railway or street railway at the address as it appears on the last approved city tax roll; such additional written notice, if required, shall be mailed or delivered, and the first publication shall be made at least ten (10) days before the date of the hearing. If all such notices shall describe in general terms the nature of the improvements for which assessments are proposed to be levied and to which such notices relate, shall state the highway, highways, portion or portions thereof to be improved, shall state the es-

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estimated amount or amounts per front foot proposed to be assessed against the owner or owners of abutting property and such property on each highway or portion with reference to which hearing mentioned in the notice is to be held, and shall state the estimated total cost of the improvements on each such highway, portion or portions thereof, and if the improvements are to be constructed in any part of the area between and under rails and tracks, double tracks, turnouts, and switches, and two (2) feet on each side thereof of any railway, street railway or interurban, shall also state the amount proposed to be assessed therefor, and shall state the time and place at which such hearing shall be held, then such notice shall be sufficient, valid and binding upon all owning or claiming such abutting property, or any interest therein, and upon all owning or claiming such railway, street railway, or interurban, or any interest therein. Such hearing shall be by and before the governing body of such city and all owning any such abutting property, or any interest therein, and all owning any such railway, street railway, or interurban, or any interest therein, shall have the right, at such hearing, to be heard on any matter as to which hearing is a constitutional prerequisite to the validity of any assessment authorized by this Act, and to contest the amounts of the proposed assessments, the lien and liability thereof, the special benefits to the abutting property and owners thereof by means of the improvements for which assessments are to be levied, the accuracy, sufficiency, regularity and validity of the proceedings and contract in connection with such improvements and proposed assessments, and the governing body shall have power to correct any errors, inaccuracies, irregularities, and invalidities, and to supply any deficiencies, and to determine the amounts of assessments and all other matters necessary, and by ordinance to close such hearing and levy such assessments before, during or after the construction of such improvements, but no part of any assessment shall be made to mature prior to acceptance by the city of the improvements for which assessment is levied.

Anyone owning or claiming any property assessed, or any interest therein, or any railway, street railway, or interurban assessed, or any interest therein, who shall desire to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto, or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, shall have the right to appeal therefrom and from such hearing by instituting suit for that purpose in any court having jurisdiction, within fifteen (15) days from the time such assessment is levied, and anyone who shall fail to institute such suit within such time shall be held to have waived every matter which might have been taken advantage of at such hearing, and shall be barred and estopped from in any manner contesting or questioning such assessment, the amount, accuracy, validity, regularity, and sufficiency thereof, and of the proceedings and contract with reference thereto and with reference to such improvement for or on account of any matter whatsoever. And the only defense to any such assessment in any suit to enforce the same shall be that the notice of hearing was not mailed or delivered as required and was not published or did not contain the substance of one or more of the requisites therefor herein prescribed, or that the assessments exceed the amount of the estimate, and no words or acts of any officer or employee of the city, or member of any governing body shown in its written proceedings and records shall in any way affect the force and effect of the provisions of this Act. As amended Acts 1963, 58th Leg., p. 140, ch. 83, § 1.

CHAPTER TEN—PUBLIC UTILITIES

1. CITY OWNED UTILITIES

Art. 1109a—3. Acquisition of property for water purification and treatment facilities.

- Sec.
1. Authority of certain cities and towns.
 2. Acquisition and construction of improvements and facilities.
 3. Negotiable bonds or warrants; taxes for interest and sinking fund.
 4. Improvement, maintenance and operation of facilities; charges; contracts for services; rules and regulations.
 5. Approval of contract for water treatment.
 6. Taxes for operation and maintenance of improvements and facilities.
 7. Validation of water treatment contracts.
 8. Cumulative effect.

1110c. Improvements to water and sewer systems.

- Sec.
1. Constructing, extending, enlarging or reconstructing systems.
 2. Definitions.
 3. Necessity for improvements; determination and order.
 4. Ordinance or resolution; costs; assessments against benefited property.
 5. Tax or assessment against railway, street railway or interurban right-of-way.
 6. Amount of assessment against benefited property; payment and default; liens; certificates of special assessment; contents.
 7. Apportionment of assessments; front foot plan.
 8. Notice of improvement, assessment and lien.
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Art.

1110c. Improvements to water and sewer systems—Cont'd

- Sec.
11. Exemptions; personal liability for assessments; enforcement of liability.
 12. Hearing on assessment; notice; contents contesting assessment; appeal; defenses.
 13. Changes or abandonment in plans, methods or contracts.
 14. Assessment against parcels owned by same person.
 15. Exercise of powers.
 16. Invalid or unenforceable assessments; correction of irregularities; re-assessments.
 17. Right of appeal from re-assessment.
 18. Assessments in conjunction with street improvements; joint proceedings; single assessment certificate.
 19. Subdivided or platted property.
 - 19-A. Duty to furnish water or sewer service.
 20. Certificates as legal and authorized investments.
 21. Cumulative effect.
 22. Home rule cities; plans and specifications for improvements; payment of contractor; reimbursement; assessments.
 23. Partial invalidity.

2. ENCUMBERED CITY SYSTEM

1118n—10. Refunding outstanding waterworks and sewer revenue bonds; additional refunding bonds.

- Sec.
1. Eligible city.
 2. Refunding bonds secured by pledge of revenues; issuance; interest; deposits in state treasury.
 3. Elections authorizing bond issue.
 4. Additional revenue bonds; ordinances; junior lien bonds.
 5. Approval of bonds by attorney general; incontestability.

1. CITY OWNED UTILITIES

Art. 1109a—3. Acquisition of property for water purification and treatment facilities

Authority of certain cities and towns

Section 1. Cities and towns of this state incorporated under General or Special Law or operating under a Home Rule Charter and which are located within or which have contracted or which may hereafter contract with any Municipal Water Authority or other District organized under the provisions of Section 59 of Article XVI of the Texas Constitution, for a supply of untreated water shall have and are here-

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by granted the power separately or jointly, in combination with any one or more such cities or towns, to receive and acquire through gift or dedication, by purchase without condemnation or by condemnation, any property in this state located inside or outside the corporate limits of any such city or town for the purpose of building and acquiring water purification and treatment facilities, reservoirs, pipelines, and water transporting facilities of every kind deemed necessary for providing such cities or towns separately or jointly with a supply of fresh water for municipal, domestic and industrial purposes, and to build, construct or otherwise acquire any and all such facilities. The procedure to be followed in condemnation proceedings hereunder and authorized herein shall be in accordance with the provisions of state law with reference to eminent domain including particularly the provisions of Title 52 of the Revised Civil Statutes of Texas, 1925, as amended.

Acquisition and construction of improvements and facilities

Sec. 2. Such cities and towns are hereby empowered separately or jointly to maintain, improve and operate all properties acquired and constructed hereunder and all improvements thereon and to sell or lease all or any part of such property and improvements and shall have full and ample power to separately or jointly manage, control and operate properties so owned jointly by two or more such cities and towns by entering into contract with each other on terms mutually agreeable.

Negotiable bonds or warrants; taxes for interest and sinking fund

Sec. 3. The governing body of any city which may provide water treatment facilities under the provisions of this Act may for such purpose issue negotiable bonds or warrants of such city and levy taxes to provide the interest and sinking fund therefor in the manner provided by law for the issuance of tax supported bonds and warrants of such cities and towns, or may issue bonds supported by the revenues of any one or all of its utilities in the manner provided in Article 1111 et seq., Revised Civil Statutes of Texas, 1925, as amended.

Improvement, maintenance and operation of facilities; charges; contracts for services; rules and regulations

Sec. 4. Any city or town acquiring property and facilities separately or cities and towns acquiring property and facilities jointly under this Act are authorized and empowered to improve, maintain, operate and conduct same for the authorized purposes and to make and provide all necessary or useful improvements and facilities and to fix and make such reasonable charges for the use thereof as the governing body or governing bodies, by mutual agreement may determine. Any such city or town acting separately and any such cities and towns acting jointly may contract with any other city or town for supplying the latter with services to be afforded by the improvements and facilities acquired and constructed hereunder and such cities and towns are granted all necessary powers and authority to make and enforce rules and regulations pertaining to the use of improvements and facilities as the interested governing bodies may, by ordinance, determine.

Approval of contract for water treatment

Sec. 5. No election shall be required of any city or town for approval of any contract pertaining to water treatment under this Act but any such contract may be entered into without the necessity of an election.

Taxes for operation and maintenance of improvements and facilities

Sec. 6. In addition to any taxes which may be levied by any city or town for the interest and sinking fund of any bonds issued hereunder any city or town acquiring improvements and facilities either separately or jointly pursuant to this Act are authorized and empowered to levy and collect taxes for the purpose of improving, operating and maintaining any such improvements and facilities; provided that nothing in this Act shall be construed as authorizing any city or town to exceed the limits of taxation placed upon it by the Constitution and Laws of this state or by their home rule charter.

Validation of water treatment contracts

Sec. 7. All acts and proceedings of the governing bodies of cities and towns, eligible under the provisions of this Act, heretofore accomplished in the authorization and execution of water treatment contracts as herein contemplated as well as the terms and provisions of said water treatment contracts themselves are hereby ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates thereof with the parties thereto bound accordingly until the terms and provisions of said contracts are lawfully changed by mutual consent of the parties thereto.

Cumulative effect

Sec. 8. This Act is cumulative of all other laws and city charter provisions relating to the same subject and shall take precedence over any city charter provision in conflict but only to the extent of such conflict. Acts 1962, 57th Leg., 3rd C.S., p. 48, ch. 18, §§ 1-8.

Condemnation of property to construct water supply reservoirs, see art. 1107.

Municipal bonds, see art. 823 et seq.

Eminent domain by incorporated cities and towns for water systems, see art. 1109b.

Refunding bonds, cities operating under general law and owning waterworks system, see art. 1118n-3.

Eminent domain, procedure, see art. 3264.

Waterworks systems, condemnation of public or private lands, see art. 1109(3).

Art. 1110c. Improvements to water and sewer systems

Constructing, extending, enlarging or reconstructing systems

Section 1. Cities, towns and villages as hereinafter defined shall have power under this Act to improve any water works system or sanitary sewer system within their limits by constructing, extending, enlarging or reconstructing such water or sanitary sewer systems, which power shall include that of making any one or more of the kinds or classes of improvements herein named or any combination thereof or parts thereof.

Definitions

Sec. 2. As used in this Act, unless the context otherwise requires, the term:

(A) "City" shall mean any incorporated city, town or village, including home rule cities, which has all or a major portion of its territory in a county which, at the time any action is taken under the powers herein granted, has a population in excess of 700,000 according to the preceding Federal Census.

(B) "Improvements to the Sewer System" shall mean the laying of all mains, laterals and extensions, and all appliances and necessary

adjuncts thereto necessary for the sanitary disposal of excreta and offal from the area in which such improvements are constructed hereunder, but shall not include such off-site mains, laterals and extensions, and appliances and necessary adjuncts thereto shall be necessary to connect such improvements to the existing sanitary sewer system operated by the city.

(C) "Improvements to the Water System" shall mean the laying of a water main or mains with gates, tees, crosses, taps, meter boxes, manholes or extensions and any and all other appurtenances necessary and required for the furnishing of water for domestic or commercial purposes to the area in which such improvements are constructed hereunder, but shall not include such off-site mains, gates, tees, crosses, taps, meter boxes, manholes or extensions, and other appurtenances as shall be necessary to connect such improvements to the existing water system operated by the city.

(D) "Cost of Improvement" with regard to the construction of improvements to the water system and sewer system, either or both, shall include expenses of engineering, fiscal fees, and other expenses incident to construction of improvements in addition to the other costs of the improvements.

(E) "Construction of Improvement" when used herein shall mean the construction of improvements to the water or sewer system, either or both, as same are herein defined.

(F) "Improvements" when used alone herein shall mean improvements to the sewer or water system, either or both, as herein defined.

(G) "Governing Body" shall mean the city, town or village council or commission which serves as the legislative body of the city.

(H) "Benefited Property" shall mean any lot or tract within the subdivided or platted property to which water and sewer service, either or both, is made available under the terms of this Act.

Necessity of improvements; determination and order

Sec. 3. The governing body of the city shall have power to determine the necessity for, and to order, the construction of improvements within said city and to contract for the construction of such improvements in the name of the city, and to provide for the payment of the cost of improvements by the city or partly by the city and partly by assessments as hereinafter provided.

Ordinance or resolution; costs; assessments against benefited property

Sec. 4. By the ordinance or resolution declaring that the necessity exists for such improvements, the city shall state generally the nature and extent of such improvements, and may direct that detailed plans, specifications and cost estimates therefor be prepared and submitted to the governing body. The cost of improvements may be wholly paid by the city, or partly by the city and partly by the property benefited by the construction of improvements and the owners of such property, but if any part of the cost is to be paid by such benefited property and the owners thereof, then before any improvements are actually constructed, either before or after receipt of bids for the proposed construction are received by the city, but before any hearing herein provided for is held, the governing body shall prepare, or cause to be prepared, an estimate of the cost of such improvements; in no event shall more than

nine-tenths of the costs of such improvements as shown on such estimate be assessed against such benefited property and the owners thereof.

Tax or assessment against railway, street railway or interurban right-of-way

Sec. 5. No special tax or assessment shall be levied against a railway, street railway or interurban right-of-way to defray a portion of the cost of the improvements to a city's water or sanitary sewer system.

Amount of assessment against benefited property; payment and default; liens; certificates of special assessment; contents

Sec. 6. Subject to the terms hereof, the governing body of any city shall have power by ordinance to assess nine-tenths of the estimated cost of improvements against benefited property, and against the owners of such property, and to provide the time, terms, and conditions of payment and defaults of such assessments, and to prescribe the rate of interest thereon not to exceed eight per cent per annum. Any assessment against benefited property shall be a first and prior lien thereon, and shall be a personal liability and charge against the true owners of such property at the date upon which said lien is fixed and becomes effective, whether named or not in any notice, instrument, certificate or ordinance provided for hereunder. The governing body shall have power to cause to be issued in the name of the city assignable certificates in evidence of assessments levied hereunder declaring the lien upon the property and liability of the true owners thereof whether correctly named or not and to fix the terms and conditions of such certificates.

If any such certificate shall recite substantially that the proceeding with reference to making the improvements therein referred to have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien against the property described in said certificate and the personal liability of the owner or owners thereof have been performed, same shall be prima facie evidence of all the matters recited in said certificate, and no further proof thereof shall be required. In any suit upon any assessment or re-assessment in evidence of which a certificate may be issued under the terms of this Act it shall be sufficient to allege the substance of the recitals in such certificate and that such recitals are in fact true, and further allegations with reference to the proceedings relating to such assessment or re-assessment shall not be necessary.

Such assessments shall be collectable with interest, expense of collections, and reasonable attorney's fees, if incurred, and shall be first and prior liens on the property assessed, superior to all other liens and claims except state, county, school district and city ad valorem taxes, and shall be a personal liability and charge against said owners of the property assessed.

Apportionment of assessments; front foot plan

Sec. 7. That part of the cost of water and sewer improvements, either or both, but computed separately, which may be assessed against benefited property and the owners thereof shall be apportioned among the tracts or parcels of benefited property and the owners thereof in accordance with the front foot plan or rule, provided that if the application of this rule would, in the opinion of the governing body, in particular cases, result in injustice or inequality, it shall be the duty of said body to apportion and assess said costs in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value

to be received by such owners, and the adjustment of such apportionment so as to produce a substantial equality of benefits received and burdens imposed. For purposes of computing the amount of the assessment to be made under such front foot plan or rule, each parcel of benefited property shall be assessed according to the number of lineal feet of each such parcel abutting upon a public street irrespective of the location of improvements constructed hereunder relative to such parcel so long as such improvements provide water and sewer service, either or both, to the parcel to be assessed; provided, however, that corner lots shall be assessed only for the shorter side of same abutting upon a public street.

Notice of improvement, assessment and lien

Sec. 8. Whenever the governing body of any city shall, pursuant to this Act, determine it to be necessary that any sewer or water system be improved in any manner, then if it is proposed that all or any part of the cost of such improvements be levied or assessed and made a lien on property benefited thereby, there may be filed with the county clerk of the county or counties in which such property is situated a notice signed in the name of such city, by its clerk, secretary or mayor or other officer performing the duties of such. Such notice shall meet all requirements of the act when it shows substantially that the governing body of such city has ordered, directed or otherwise provided or determined it to be necessary that such system be improved and shall describe the location and limits between which same is to be or has been improved or shall otherwise identify or designate such system and shall state that a portion of the cost of such improvement is to be or has been specially assessed as a lien upon property benefited thereby, and shall describe such property. It is specially provided that one notice may embrace and include any number of such systems or improvements.

Contents of notice; filing

Sec. 9. It shall not be necessary that any notice required by this Act give details or that it be sworn to or acknowledged and same may be filed at any time and the county clerk with whom any such notice is filed shall record same in the records of mortgages or deeds of trust and shall index same in the name of the city and in the name of other designation of the water or sewer system or systems to the improvement of which the notice relates.

Effective date of lien

Sec. 10. In all instances coming within the purview of this Act the lien of any assessment or re-assessment upon the property assessed or re-assessed shall take effect and be in force at and from the filing of the notice herein provided for and not before.

Exemptions; personal liability for assessments; enforcement of liability

Sec. 11. No property of any kind, church, school or otherwise, shall be exempt from any tax or assessment or assessments authorized hereby for local improvements, provided, however, that nothing herein shall empower any city or its governing body to fix a lien against any interest in property which is exempt from the lien of special assessments for local improvements under the Constitution of Texas at the time the lien takes effect, but the owner or owners of such property shall nevertheless be personally liable for any assessment in connection with such improvement and the city shall have power and authority to refuse water or

sewer service, either or both, to the owners of such property until the owner thereof pays to the city the amount of the assessment made against such property or an amount equal to that amount assessed for such improvements against private property of equal or comparable size. The fact that any improvement, though ordered, is omitted as to any property, any interest in which is so exempt, shall not invalidate the lien or liability of assessments made against other property.

The lien created against any property and the personal liability of the owner or owners thereof may be enforced by suit in any court having jurisdiction, or by sale of the property assessed in the same manner as may be provided by law or charter in force in the particular city for sale of property for ad valorem city taxes, and the city, as an aid to the enforcement of the liability imposed by the assessment, may refuse to connect or may disconnect sewer or water service to a tract or parcel of benefited property during the period on which there is a default in the payment of any amount assessed hereunder against such tract or parcel and the owners thereof.

**Hearing on assessment; notice; contents contesting
assessment; appeal; defenses**

Sec. 12. No assessment herein provided for shall be made against any benefited property of its owners, until after notice and opportunity for hearing as herein provided, and no assessment shall be made against any benefited property or owners thereof in excess of the special benefits of such property and its owners in the enhanced value thereof by means of such improvements as determined at such hearing. Such notice shall be by writing mailed to the address of the owner of such property or the person who last paid taxes on such property as determined from the tax rolls of the city, such written notice to be mailed at least ten days prior to the date set for the hearing, and by advertisement inserted at least three times in some newspaper of general circulation in the city where such special assessment tax is to be imposed, the first publication to be at least ten days before the date of the hearing. Proof of such mailing and such publication shall constitute proof that all notice requirements of this Act have been fully complied with.

If any such notice shall describe in general terms the nature of the improvements for which assessments are proposed to be levied and to which such notice relates, shall state the water or sanitary sewer system, portion or portions thereof to be improved, shall state the estimated amount or amounts per front foot proposed to be assessed against benefited property or the owners thereof and describe the property benefited by each system or portion, with reference to which hearing mentioned in the notice is to be held, and shall state the estimated total cost of the improvements on each such system, portion or portions thereof, and shall state the time and the place at which such hearing shall be held, then such notice shall be sufficient, valid and binding upon all owning or claiming such benefited property, or any interest therein. Such hearing shall be by and before the governing body of such city and all owning or claiming such benefited property, or any interest therein, shall have the right, at such hearing, to be heard on any matter as to which hearing is a constitutional prerequisite to the validity of any assessment authorized by this Act, and to contest the amounts of the proposed assessments, the lien and liability thereof, the special benefits to the benefited property and owners thereof by means of the improvements for which assessments are to be levied, the accuracy, sufficiency, regularity and validity of the proceedings and contract in connection with

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such improvements and proposed assessments, and the governing body shall have power to correct any deficiencies, and to determine the amounts of assessments and all other matters necessary, and by ordinance to close such hearing and levy such assessments before, during or after the construction or¹ such improvements, but no part of any assessment shall be made to mature prior to acceptance by the city of the improvements for which assessment is levied.

Anyone owning or claiming any property assessed, or any interest therein, who shall desire to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto, or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, shall have the right to appeal therefrom and from such hearing by instituting suit for that purpose in any court having jurisdiction within fifteen days from the time such assessment is levied; and anyone who shall fail to institute such suit within such time shall be held to have waived every matter which might have been taken advantage of at such hearing, and shall be barred and estopped from in any manner contesting or questioning such assessment, the amount, accuracy, validity, regularity and sufficiency thereof, and of the proceedings and contract with reference thereto and with reference to such improvements for or on account of any matter whatsoever. And the only defense to any such assessment in any suit to enforce the same shall be that the notice of hearing was not published or mailed or did not contain the substance of one or more of the requisites therefor herein prescribed, or that the assessments exceed the amount of the estimate, and no words or acts of any officer or employee of the city, or member of any governing body of the city, other than the action of the governing body shown in its written proceedings and records shall in any way affect the force and effect of the provisions of this Act.

¹ So in enrolled bill.

Changes or abandonment in plans, methods or contracts

Sec. 13. The governing body of the city shall have power to provide for changes in plans, methods or contracts for improvements, or other proceedings relating thereto, but any change substantially affecting the nature or quality of any improvements shall only be made when it is determined by two-thirds vote of the governing body that it is not practical to proceed with the improvements as theretofore provided for, and if any such substantial change be made after any hearing has been ordered or held then unless the improvement be abandoned altogether a new estimate of cost shall be made and a new hearing ordered, and held, and new notices given, all with like effect and in like manner as herein provided for original notice and hearings. Changes in or abandonment of improvements must be with the consent of such person, firm or corporation as may have contracted with the city for the construction thereof, if any such contract has been entered into, and in case of abandonment of any particular improvement an ordinance shall be passed which shall have the effect of cancelling any assessments theretofore levied therefor, and all other proceedings relating thereto.

Assessment against parcels owned by same person

Sec. 14. Assessments against several parcels of benefited property may be made in one assessment when owned by the same person, firm,

corporation or estate, and benefited property owned jointly by one or more persons, firms or corporations may be assessed jointly.

Exercise of powers

Sec. 15. Said governing body shall have power to carry out all the terms and provisions of this Act and to exercise all the powers thereof, either by resolution, motion, order or ordinance, except where ordinance is specifically prescribed, and such governing body shall have power to adopt either by resolution or ordinance, any and all rules or regulations appropriate to the exercise of such powers, the method and manner of ordering and holding such hearings, and the giving of notices thereof.

Invalid or unenforceable assessments; correction of irregularities; re-assessments

Sec. 16. In case any assessment shall for any reason whatsoever be held or determined to be invalid or unenforceable, then the governing body of such city is empowered to supply any deficiency in proceedings with reference thereto and correct any mistake or irregularity in connection therewith, and at any time to make and levy re-assessments after notice and hearing as nearly as possible in the manner herein provided for original assessments and subject to the provisions hereof with reference to special benefits. Recitals in certificates issued in evidence of re-assessments shall have the same force as provided for recitals in certificates relating to original assessments.

Right of appeal from re-assessment

Sec. 17. Anyone owning or claiming any property interest in any property against which such re-assessment is levied shall have the same right of appeal as herein provided in connection with original assessments, and in the event of failure to appeal within fifteen days from the date of hearing relative to such re-assessment, the provisions hereinabove made with reference to waiver, bar, estoppel and defense shall apply to such re-assessment.

Assessments in conjunction with street improvements; joint proceeding; single assessment certificate

Sec. 18. Should any city so desire, it may make the improvements and assessments provided for hereunder in conjunction with street improvements and assessments provided for in Article 1105b, V.A.T.C.S. by one joint proceeding and only one hearing shall be necessary, and in such event the procedure herein provided shall govern. A single assessment certificate may be issued against any tract or parcel of benefited property and the owners thereof in evidence of the total assessment made for all or any improvements, including street improvements made in a joint proceeding as provided in the preceding sentence, made under this Act, provided that the amount assessed for each class of said improvements is shown separately and distinctly in the ordinance by which any assessment is made hereunder.

Subdivided or platted property

Sec. 19. No assessment or other charge permitted by this Act shall be made for the construction of improvements to any water or sewer system against any property or the owners thereof unless such property is in an area which has been subdivided or platted for a period of at least ten years next preceding the effective date of this Act. For purposes of determining property or areas to which this Act shall apply, "Subdivided or platted property" shall mean such property as has been duly platted

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under the terms of Article 974—A, V.A.T.C.S. or any property which has been subdivided or platted by map or plat filed for record in the office of any county clerk, by the terms of which map or plat there has been made any dedication of the property to the public use for a street or alley right-of-way or for public utility easements.

Duty to furnish water or sewer service

Sec. 19—A. It is the intention of the Legislature, due to the emergency nature of this Act, that nothing contained herein shall be construed to effect any change in any way in the law of this state, whether promulgated by Statute or court decision, either or both, relating to the duty of a city in its proprietary capacity to furnish water and sewer service, either or both.

Certificates as legal and authorized investments

Sec. 20. Certificates of special assessment issued under the provisions of this Act, including certificates issued in joint proceedings as hereinabove set out, shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, and sinking funds of cities, towns and villages, counties, school districts or other political subdivisions of the State of Texas and for all other public funds of the state or its agencies.

Cumulative effect

Sec. 21. The provisions of this Act shall be cumulative of existing laws. The provisions of this Act shall be liberally construed to effectuate its purposes and substantial compliance with the provisions hereof shall be sufficient.

Home rule cities; plans and specifications for improvements; payment of contractor; reimbursement; assessments

Sec. 22. A home rule city to which this Act applies shall have the power and authority to adopt plans and specifications for improvements in accordance with the provisions hereof and shall have the power to pay to the contractor, the successful bidder, that part of the cost that may be assessed against the owners and their benefited property in cash and the city may reimburse itself for the amount by levying an assessment against benefited property and the owners thereof, after hearing and notice, as in this Act provided, up to the amount of the enhancement in value represented by the benefits and permitted by this Statute, and issue assignable certificates in favor of such city for the assessment. The certificates shall be enforceable in the same manner as herein provided. The city shall likewise have the power to do the improvement or improvements by its own forces if the work can be done more expeditiously and economically.

Partial invalidity

Sec. 23. Should any Section, provision, word, phrase, or clause of this Act or the application thereof to any person or circumstance be held invalid, unconstitutional or ineffective, the remainder of the Act, and the application of such provisions to other persons or circumstances shall not be affected thereby. Acts 1963, 58th Leg., p. 512, ch. 192.

City councils, powers, see art. 1011.

Home rule cities, enumerated powers, see art. 1175.

Platting or recording subdivisions or additions, see art. 974a.

Public utilities, power of cities to construct and operate, see art. 1108.

Street improvements and assessments, see art. 1105b.

Towns and villages, powers, see art. 1140.

2. ENCUMBERED CITY SYSTEM**Art. 1118n—10. Refunding outstanding waterworks and sewer revenue bonds; additional refunding bonds****Eligible city**

Section 1. This Act shall be applicable to any city which has outstanding bonds secured by a pledge of net revenue of its sanitary sewer system and other bonds secured by a lien on its waterworks system and the revenues therefrom, and does not have the right to issue additional equal lien bonds payable from its waterworks revenues. As used herein "Eligible City" means a city to which this Act is applicable.

Refunding bonds secured by pledge of revenues; issuance; interest; deposits in state treasury

Sec. 2. An Eligible City is authorized to issue bonds, without the necessity of an election, for the purpose of refunding outstanding waterworks revenue bonds and sewer revenue bonds into an issue of refunding bonds which will be secured by and payable from a pledge of revenues of both the waterworks system and the sewer system. Such refunding bonds shall bear a rate of interest specified by the governing body of the City, but not to exceed six per cent (6%) per annum, and mature serially or otherwise in not to exceed forty (40) years. All or any part of such refunding bonds may, in lieu of being exchanged by the Comptroller of Public Accounts for outstanding bonds, be sold for cash, in which event, there shall be deposited with the State Treasurer an amount of money sufficient to pay the unexchanged portion thereof plus interest to maturity on bonds which are not optional for redemption prior to maturity, and to the option date on bonds which are optional. There shall also be deposited with the State Treasurer the additional amount required by Chapter 541, Acts of the Fifty-first Legislature as amended. The State Treasurer shall hold and disburse such funds as provided in Chapter 541 except that he is not required to transmit money to the Trustee or the bank of payment until one business day before each interest payment date on the bonds being refunded.

Elections authorizing bond issue

Sec. 3. If, prior to such refunding, an Eligible City has had elections authorizing the issuance of bonds to be secured by a pledge of waterworks revenues and other bonds secured by sewer revenues, or either, such bonds may, after the issuance of such refunding bonds, be issued and secured by a pledge of net revenues of both the waterworks system and sewer system without the necessity of an additional election.

Additional revenue bonds; ordinances; junior lien bonds

Sec. 4. An Eligible City may issue additional revenue bonds which will be on a parity with previously issued and outstanding revenue bonds at any time under the conditions specified in the ordinance or ordinances which authorized the issuance of the then outstanding bonds. Articles 1111 to 1118, both inclusive, Revised Civil Statutes of 1925, as amended, shall be applicable to bonds issued under this law, except as otherwise provided herein. An Eligible City may issue junior lien bonds unless prohibited by the ordinance authorizing outstanding bonds.

Approval of bonds by attorney general; incontestability

Sec. 5. All bonds issued under this Act shall be submitted to the Attorney General of Texas for his approval, and when approved by him, shall be registered by the Comptroller of Public Accounts of the State of Texas, and thereafter such bonds shall be incontestable. Acts 1963, 58th Leg., p. 321, ch. 119.

Additional bonds and refunding bonds; water or sewer systems, see art. 1111a.

Municipal bonds, see art. 823 et seq.

Additional revenue bonds, issuance without election, see art. 1118t.

Refunding outstanding revenue bonds issued for certain utilities, see art. 1185.

CHAPTER THIRTEEN—HOME RULE**Art. 1174a. Validating charter or charter amendments**

That each charter, and amendment to a charter adopted by any city or ¹ more than five thousand inhabitants in this State, or where such city has amended or attempted to amend or adopt such charter, since the enactment of Chapter 147, Acts of the Regular Session of the Thirty-Third Legislature of the State of Texas, 1913, relating to home rule, as well as all amendments and proceedings had under the same and all bonds issued under any amendment where the said bonds have been approved by the Attorney General and registered with the Comptroller, are hereby fully validated, ratified and confirmed and are hereby declared to be in full force and effect as if adopted in strict compliance with all of the requirements of said Chapter 147, Acts of the Thirty-Third Legislature, and the General Laws of Texas relating thereto, and this act shall take effect and be in force from and after its passage. Acts 1925, 39th Leg., p. 187, ch. 50, § 1; Acts 1929, 41st Leg., p. 324, ch. 149, § 1.

¹ So in enrolled bill. Should probably read "of".

Art. 1175. Enumerated powers

Cities adopting the charter or amendment hereunder shall have full power of local self-government, and among the other powers that may be exercised by any such city the following are hereby enumerated for greater certainty:

2. The power to fix the boundary limits of said city, to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, to provide for the disannexation of territory within such city and to provide for the exchange of territory with other cities or towns, according to such rules as may be provided by said charter not inconsistent with the procedural rules prescribed by the Municipal Annexation Act.¹ As amended Acts 1963, 58th Leg., p. 447, ch. 160, art. II.

¹ Article 970a.

Annexation of territory, see art. 1182a et seq.

Appropriations for advertising and promoting growth and development, see art. 2352d.

Bonds to pay indebtedness or judgments authorized, see arts. 802b-1, 802b-3, 802b-5.

Cities generally, powers, see art. 1011.

Depository, council to take applications for, see art. 2559.

Gas distribution system, authority to acquire, maintain and operate, see art. 1015d.

Improvements to water and sewer systems, see art. 1110c.

Light, water or sewerage systems, authority to incur or mortgage, etc., see arts. 1111-1113.

Municipal Annexation Act, see art. 970a.

Power to levy taxes, taxes levied by counties and other subdivisions not considered in determining, see art. 1066a.

Recreation projects, purchase and incurrence, see art. 1015c.

Sanitation and health protection, authority of Home Rule Cities not affected by law prescribing minimum requirements for, see art. 4477-1.

State Highway Commission, contracts with, see art. 6673-b.

Validation,

Bonds, see arts. 704 note, 835e.

Refunding bonds, see art. 835e-1.

CHAPTER SEVENTEEN—CONDEMNATION FOR HIGHWAYS

Art. 1211. Notice of assessment

No assessment shall be made against owners of property benefited, or their property, until after a reasonable opportunity to be heard shall have been given them, lienholders, and others interested, before such governing body, or the commission hereafter referred to, preceded by a reasonable notice thereof published three (3) times prior to said hearing in some newspaper of general circulation in the city; and, if the owner is a railway or street railway, by additional written notice delivered either in person to its local agent, or by depositing said written notice in the city post office, postage paid, and properly addressed to the offices of the railway or street railway at the address as it appears on the last approved city tax roll; and the written notice, if required, to be mailed or delivered, and the first publication to be made not less than ten (10) days prior to said hearing, and the names of owners, lienholders, and others interested need not be specifically set out in said notice, but the parcel or parcels of land proposed to be assessed shall be briefly described in said notice, either by lot and block, number, front feet, or by any other description reasonably identifying the same, or by reference to any plat, report or record filed in connection with said proceedings. The governing body or commission shall have the power to give other and additional notice, but said published notice, together with said written notice, if required, shall be sufficient. *Id.*; Acts 1963, 58th Leg., p. 347, ch. 131, § 1.

Notices of assessments for street improvements, see art. 1220a.

CHAPTER TWENTY—MISCELLANEOUS PROVISIONS

Art. 1268b. Lease of city-owned swimming pools.

Art. 1269j-5.1 Airport revenue bonds; cities with population of 800,000 or more.

Art. 1268b. Lease of city-owned swimming pools

Section 1. The governing body of any incorporated city or town (including home rule cities) is hereby authorized to lease any city-owned swimming pool, to be operated by the lessee as a public swimming pool under such terms and conditions as may be agreed upon by such governing body and such lessee. Any such lease shall be authorized by ordinance or resolution adopted by such governing body, and the lease agree-

ment shall be executed on behalf of the city or town, by the mayor and the city secretary or clerk, and the seal of the city shall be impressed thereon. Such lease may cover any period of time not to exceed fifty (50) years. Acts 1963, 58th Leg., p. 1169, ch. 455.

Additional revenue bonds for swimming pools, see art. 1118u.

Validation of bonds for swimming pools, see art. 1114d.

Power of cities to purchase and encumber swimming pools, see art. 1015c.

Art. 1269h. Airports, maintenance and operation

Airstrips, use of county equipment, machinery and employees of counties of 17,650

to 17,700 for construction and maintenance, see Art. 1581d—1.

Art. 1269j—4. Auditoriums, exhibition halls and similar buildings; cities over 125,000 population

Park facilities, construction in cities over 650,000 population, see art. 6081j.

Art. 1269j—5.1 Airport revenue bonds; cities with population of 800,000 or more

Section 1. This Act shall be applicable to all incorporated cities, including Home Rule Cities, having a population of eight hundred thousand (800,000) or more according to the last preceding Federal Census.

Sec. 2. (a) Any such city is hereby authorized to issue revenue bonds for the purpose of establishing, improving, enlarging, extending or repairing (any or all) the airport or airports of such city, including the acquisition of land therefor, said bonds to be issued in the manner provided and as authorized by Chapter 43, Acts of the 53rd Legislature of Texas, First Called Session, 1954, as presently or hereafter amended,¹ the bonds issued hereunder to be payable from all or any designated part or parts of the revenues of said airport or airports (including the revenues from any airport or airports then existing or to be thereafter acquired, either or both) as may be provided in the ordinance or ordinances authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 43, as presently or hereafter amended, shall apply to revenue bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any inconsistency or conflict). Without in any way limiting the generality of "establishing, improving, enlarging, extending, or repairing (any or all) the airport or airports of such city, including the acquisition of land therefor," as used above, it is expressly provided that the same shall include, among other things, buildings, improvements, landing fields, and such other facilities and services that the city deems to be necessary, desirable, or convenient to the efficient operation and maintenance of its airport or airports. With respect to the pledge of revenues and income of said airport or airports to the payment of the operation and maintenance expenses and principal of and interest on such bonds, as provided by said Chapter 43, such city shall be authorized to levy and pledge to the payment of such operation and maintenance expenses, either as a supplement to the pledge of revenues for such purpose or in lieu thereof, a continuing, annual ad valorem tax at a rate or rates on

each One Hundred Dollars (\$100.00) sufficient for such purposes, all as may be provided in the ordinance or ordinances authorizing the issuance of any revenue bonds pursuant to the provisions of this Act; provided, that such tax or taxes shall be within the Constitutional or Charter limit for the cities covered by this Act; and provided further, that no part of any moneys raised by such tax or taxes shall ever be used for the payment of the interest on or principal of any bonds issued hereunder. The proceeds of any such tax or taxes thus pledged shall be utilized annually to the extent required by, or provided in, the ordinance or operation and maintenance of such airport or airports, and such city in its discretion may covenant in such ordinance or ordinances that certain costs of operating and maintaining such airport or airports, as may be enumerated therein, or all of such costs, will be paid by the city from the proceeds of such tax.

(b) In the ordinance or ordinances authorizing the issuance of any revenue bonds authorized hereunder, the city may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provision for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as it may deem appropriate. Such ordinance or ordinances may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said ordinance or ordinances. Such ordinance or ordinances may contain other provisions and covenants, as the city may determine, not prohibited by the Constitution of Texas or by this Act, and the city may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any of said bonds.

(c) From the proceeds of sale of any bonds issued hereunder, the city may appropriate or set aside out of the bond proceeds an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond ordinance or ordinances, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds. Until such time or times as the bond proceeds are needed to carry out the bond purpose, such bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit (either or both). Moneys in the interest and sinking fund or funds, in the reserve fund or funds, and in the other fund or funds established or provided for in the bond ordinance or ordinances may be invested in such manner and in such securities as may be provided in the bond ordinance or ordinances.

(d) All bonds shall be signed by the Mayor of the city and countersigned by the City Secretary (or City Clerk), and shall have the seal of the city impressed thereon; provided, that the bond ordinance or ordinances may provide for the bonds to be signed by the facsimile signatures of said Mayor and City Secretary (or City Clerk), either or both, and for the seal of the city on the bonds to be a facsimile seal of the seal of the city; and provided further, that the interest coupons attached to said

bonds may also be executed by the facsimile signatures of said officers. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates and may be sold at a price and under such terms determined by the governing body of the city to be the most advantageous reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance or ordinances authorizing such bonds. Any such bonds may be made registrable as to principal, or as to both principal and interest. All bonds issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud.

(e) Any city covered by this Act shall have the power and authority to issue revenue refunding bonds to refund revenue bonds (either original bonds or refunding bonds) theretofore issued by such city under Chapter 43, supra, or under said Chapter 43 and this Act, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by ordinance or ordinances and shall be executed and mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the ordinance or ordinances authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable except for forgery or fraud. The provisions of Sections 2(a) and 2(b) of this Act shall apply with equal force to refunding bonds issued hereunder.

(f) All bonds issued under this Act, whether original bonds or refunding bonds, shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or sub-

divisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto. Acts 1962, 57th Leg., 3rd C.S., p. 50, ch. 19, §§ 1, 2.

¹ Article 1269j—5.

CHAPTER TWENTY-TWO—CIVIL SERVICE

Art. 1269m. Firemen's and Policemen's Civil Service in cities over 10,000

Promotions; filling vacancies

Sec. 14. The Commission shall make rules and regulations governing promotions and shall hold promotional examinations to provide eligibility lists for each classification in the Police and Fire Departments, which examinations shall be held substantially under the following requirements:

D. All applicants shall be given an identical examination in the presence of each other, which promotional examination shall be entirely in writing and no part of which shall be by oral interview, and all of the questions asked therein shall be prepared and composed in such a manner that the grading of the examination papers can be promptly completed immediately after the holding of the examination and shall be prepared so as to test the knowledge of the applicants concerning information and facts, and all of said questions shall be based upon material which has been made available to all members of the Fire or Police Department involved and shall be based upon the duties of the position sought and upon any study courses given by such Departmental Schools of Instruction and upon the applicant's efficiency. When one of the applicants taking an examination for promotion has completed his answers, the grading of such examination shall begin, and all of the examination papers shall be graded as they are completed, at the place where the examination is given and in the presence of any applicants who wish to remain during the grading. The grade which shall be placed on the eligibility list for each applicant shall be computed by adding such applicant's points for seniority and his credit based on the average of his last two (2) semi-annual efficiency reports to his grade on such written examination. Grades on such written examinations shall be based upon a maximum grade of seventy (70) points and shall be determined entirely by the correctness of each applicant's answers to such questions. Each applicant shall have the opportunity to examine his examination and his answers thereto together with the grading thereof and if dissatisfied shall, within five (5) days, appeal the same to the Commission for review in accordance with the provisions of this Act. No person shall be eligible for promotion unless he has served in such Department for at least two (2) years immediately preceding the day of such promotional examination in the next lower position or other positions specified by the Commission, and no person with less than four (4) years actual service in such Department shall be eligible for promotion to the rank of captain. Provided, however, that the requirement of two (2) years service in the Department immediately preceding the day of promotional examination shall not be applicable to those persons recalled on active military duty for a period not to exceed twenty-four (24) months. Such persons shall be entitled to have time spent on active military duty con-

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sidered as duty in the Department concerned. However, any person whose absence for active military duty exceeds twelve (12) months, shall be required to serve ninety (90) days upon returning to the Department before he shall become eligible to participate in a promotional examination, such period being considered essential for bringing him up to date on equipment and techniques. No person shall be eligible for appointment as Chief or Head of the Fire or Police Department of any city coming under the provisions of this Act who has not been a bona fide fire fighter in a Fire Department or a bona fide law enforcement officer for five (5) years in the State of Texas. As amended Acts 1963, 58th Leg., p. 150, ch. 91, § 1.

Section 14. Subsection D was amended in 1963 so as to provide that a person recalled to active military duty may consider time so spent as being duty in the department concerned insofar as meeting the requirement of two years service in the department immediately preceding the day of promotional examination, and to provide that if absence for such military

duty exceeds twelve months, then to be eligible to participate in a promotional examination upon returning from such service, an individual must serve the department a period of 90 days to give him opportunity to be brought up to date on equipment and techniques.

Denial of right to work because of age, see art. 6252-14.

TITLE 30—COMMISSION MERCHANTS

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**3. AGRICULTURAL COMMODITIES, COMMISSION MERCHANTS,
DEALERS, AND BROKERS**

Art. 1287—1. General provisions

Sections 1-9. Repealed. Acts 1963, 58th Leg., p. 598, ch. 218, § 22.

Savings Provision

Acts 1963, 58th Leg., p. 598, ch. 218, § 22, which repealed Acts 1937, 45th Leg., p. 926, ch. 443, §§ 1-9, as amended (sections 1-9 of this article), provided that any rights accrued under the repealed act should not be impaired, and any judicial or administrative proceedings in progress should be in full force and effect.

Saved from Repeal

Acts 1963, 58th Leg., p. 598, ch. 218, § 22, which repealed Acts 1937, 45th Leg., p. 926, ch. 443, §§ 1-9, as amended (sections 1-9 of this article), provided that nothing in the act should affect Acts 1957, 55th Leg., p. 745, ch. 306, § 2, which is incorporated as section 10 of this article.

Filing bond with Commissioner of Agriculture, see Vernon's Ann.P.C. art. 1700a—3.

Fine, doing business without bond, see Vernon's Ann.P.C. art. 1125.

Regulation of vegetable producers, handlers and dealers, see art. 1287—3.

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

Art. 1287—2. Persons handling both citrus fruits and vegetables; one bond and one license fee

Any person who comes within any of the classifications set out in either House Bill No. 99, Acts of the Regular Session of the Forty-fifth Legislature, as amended,¹ or House Bill No. 557, Acts of the Regular Session of the Forty-fifth Legislature, as amended,² wherein a surety bond is required, shall be permitted to give one Twenty-five Thousand Dollar (\$25,000) surety bond, so worded as to guarantee faithful performance of all the provisions of both House Bill No. 99, Acts of the Regular Session of the Forty-fifth Legislature, as amended, and House Bill No. 557, Acts of the Regular Session of the Forty-fifth Legislature, as amended, such bond to be in such form as the Commissioner of Agriculture may prescribe, and any person who elects to give one surety bond of Twenty-five Thousand Dollars (\$25,000) to guarantee the faithful performance under both of said Acts shall be liable for only one license fee of Twenty-five Dollars (\$25), and his license shall reflect the fact that he is licensed thereby to handle both citrus fruits and vegetables. Acts 1937, 45th Leg., 1st C.S., p. 1776, ch. 16, § 3; Acts 1963, 58th Leg., p. 312, ch. 117, § 9.

¹ Article 118b and Vernon's Ann.P.C. art. 1700a—3.

² Article 1287—1.

Art. 1287—3. Regulation of vegetable producers, handlers and dealers

Definitions

Section 1. As used in this Act:

(a) "Commissioner" means the Commissioner of Agriculture of the State of Texas. The Commissioner is authorized to utilize all employees of the Department of Agriculture in the enforcement of this Act.

(b) "Vegetables" shall include agricultural commodities and mean any and all of the following enumerated commodities: asparagus, beans (string, wax or green), beets (bunched or topped), broccoli (Italian sprouting), cabbage (for sauerkraut), cantaloupes, carrots (bunched or clipped), cauliflower, celery (rough), corn (green), cucumbers (slicing), dewberries and blackberries, eggplant, endive, or escarole or chicory, garlic, kale, lettuce, melons, (honey ball and honey dew), mustard greens, okra, onions, parsley, peaches, pears, peas (fresh), peppers (sweet), potatoes, potatoes (sweet), radishes, romaine, shallots, spinach, strawberries, tomatoes (fresh), turnips (bunched or topped), or rutabagas, turnip greens and watermelons.

(c) "Person" means any individual, partnership, group of persons, corporation or business unit handling vegetables.

(d) "Handle" means buying or offering to buy, selling or offering to sell, or shipping for the purpose of selling, whether as owner, agent, or otherwise, any vegetables purchased within the State of Texas. Persons buying or shipping vegetables for canning, processing or handling are defined as handlers.

(e) "Dealer" means any person who handles vegetables.

(f) "Buying agent" means any person authorized by any licensed dealer to act for him in the handling of vegetables.

(g) "Transporting agent" means any person authorized by any dealer to act for said dealer in the transporting of vegetables.

(h) "Warehouseman" means any person who receives and stores vegetables for compensation.

(i) "Packer" means any person who prepares and/or packs vegetables for barter, sale, exchange or shipment.

(j) "Commission merchant" shall include "contract dealer" and means any person who purchases vegetables on credit, or who takes vegetables into his possession for consignment or handling on behalf of the producer or owner, or in any manner which does not require nor result in the payment to the producer, seller or consignor of the full purchase price in current money of the United States at the time of delivery to such commission merchant or when title passes from such producer, seller or consignor to such commission merchant.

(k) "Producer" means any person engaged in the business of growing or producing any vegetables.

License

Sec. 2. No person shall engage in the business of a dealer in vegetables unless such person shall first have procured a license in accordance with the provisions of this Act.

Application for license; contents

Sec. 3. Any person desiring to engage in business as a dealer in vegetables within the State shall, prior to engaging in such business, file with the Commissioner an application for, and receive a license. Such application shall be made under oath and the Commissioner shall provide forms for such applications.

(a) Such application shall set forth the following specific information:

(1) The full name of the applicant and whether the applicant is an individual, partnership, corporation, exchange or association of persons; the full name and the address of the principal business office of the applicant and the address of the principal business office of applicant within the State of Texas; in the event that the applicant be a foreign corporation, the application shall name the state in which such corporation was chartered.

(2) Foreign corporations filing applications for license under this Act shall indicate clearly in such application the name and the address of an agent for service within this State upon whom service of legal process may be had in any suit brought against said corporate applicant within the State of Texas.

(3) How long the applicant has been engaged in business in the State of Texas.

(b) In addition the applicant shall answer the following questions which shall be made a part of the application:

(1) Have you heretofore been licensed in the State of Texas as a dealer in vegetables?

(2) If you have answered that you have been so licensed, has any license so granted you within the State of Texas ever been suspended or revoked, or both?

(3) If you have answered that a license so issued you within the State of Texas has been suspended or revoked, or both, you will state when, where and give a short statement of the reason for such suspension or revocation, or both.

Fee; issuance or refusal of license; hearing; appeal

Sec. 4. All applications for license under this Act shall be accompanied by tender of payment in full of such fee as is required for the license. On receipt of such application and the required fee, the Commissioner or his duly authorized agent or employee shall immediately issue such license, provided that no license shall be issued when the application indicates that such person has had a similar license suspended or revoked, or both, until the Commissioner is furnished with satisfactory proof that the applicant is, on the date of the filing of such application, qualified to receive the license applied for. The issuance of license to persons who have suffered prior suspension or revocation of license in this State shall be discretionary with the Commissioner. In the exercise of such discretion, the Commissioner is authorized to take into consideration the facts and circumstances pertaining to the prior suspension or revocation, the financial condition of the applicant, as of the date of this application, and the obligations due and owing by the applicant to growers and producers of vegetables.

"Obligation" means any judgment of any court in this State or certified claim outstanding against the applicant as of the date of the application under consideration. Prior to refusal of license by the Commissioner, any applicant for license shall be entitled to an open hearing on the facts pertaining to such application, said hearing to be conducted by the Commissioner, or his duly licensed agent. If after such hearing the Commissioner, in the exercise of his discretion, refuses the license applied for, the applicant shall, within ten (10) days from and after the denial of such license by the Commissioner and not thereafter, file his appeal from the order of the Commissioner denying such license, in any court of competent jurisdiction within this State. If the Commissioner shall determine that the license applied for shall not be granted, the Commissioner shall deduct from the license fee tendered with such application, the sum of Five Dollars (\$5), such sum to be retained by the Commissioner to defray costs and expenses incident to the filing and examination of said application and shall return the balance of the license fee so tendered with such application to the applicant.

Fee schedule

Sec. 5. The following fees are hereby prescribed and shall be paid by applicants for license under this Act, and the Commissioner, his agents and employees are hereby authorized to collect the same:

- (a) For license as a "dealer" or "handler" of vegetables the sum of Twenty-five Dollars (\$25).
- (b) For license as a "commission merchant" and/or "contract dealer" Twenty-five Dollars (\$25).
- (c) For a license as a "buying agent," the sum of One Dollar (\$1).
- (d) For a license as a "transporting agent," the sum of One Dollar (\$1).

Surety bond of commission merchants; form

Sec. 6. All commission merchants shall, in addition to the license fee herein prescribed, deliver to the Commissioner, together with their application for license, a good and sufficient surety bond, payable to the Governor of the State of Texas and his successors in office, for the following amounts, based upon the amount of vegetables purchased by said

“commission merchant” which the “commission merchant” intends to handle during the current or next ensuing shipping season:

\$ 5,000	Up to \$25,000 of purchases
\$10,000	Between \$25,000 and \$100,000, inclusive of purchases
\$25,000	Over \$100,000 of purchases.

The bond furnished shall be in such form as the Commissioner may prescribe and shall be conditioned upon faithful compliance with the terms and provisions of this Act and upon the faithful performance of the conditions and terms of all contracts made by said “commission merchants” pertaining to the handling of vegetables under this Act. A cause of action may be maintained upon said bond by any person with whom said applicant deals in purchasing, handling, selling and accounting for sales of vegetables as provided in this Act; the aggregate accumulated liability under such bond shall not exceed the face amount thereof, and each such bond shall continue in full force and effect until notice of termination thereof is given by registered mail to the Commissioner. Such fact shall be set forth in the face of said bond, but such notice shall not affect the liability which may have accrued thereon prior to termination. No license shall be issued to any “commission merchant” prior to the delivery to the Commissioner and the approval by him of the bond required under the provision of this Section.

Cancellation of license; complaint; hearing and determination

Sec. 7. Any license issued under the provisions of this Act shall remain in full force and effect for a period of twelve (12) months from and after the date of issuance thereof unless said permit shall be cancelled in the manner hereinafter provided and pursuant to the proceedings hereinafter required, to wit: (a) any party aggrieved, injured or damaged by virtue of any violations of the terms and provisions of this Act by any licensee or by the transporting or buying agent of any licensee hereunder, may file with the Commissioner or his duly authorized agent or employee a verified complaint, setting out the specific violations complained of.

(b) The Commissioner shall set a date not more than ten (10) days from the receipt of such complaint for the hearing thereof; and notify the person complained of, furnishing him with a copy of such complaint, by registered mail to the last known address of such person.

(c) The Commissioner may, at his discretion, recess the hearing provided for in this Section from day to day if in his discretion the ends of justice demand such continuance; for the purpose of said hearings the Commissioner shall have the authority to summon witnesses; to inquire into matters of fact; to administer oaths, and to issue the subpoena duces tecum, for the purpose of obtaining any books, records, instruments, or writing, and other papers pertinent to the investigation at hand.

(d) Upon the conclusion of said hearing and the introduction of all evidence by the respective parties thereto, the Commissioner shall make his decision on the basis of the evidence introduced therein, and shall, if the evidence warrants, issue his order canceling the license of the person complained of.

Notice of cancellation; appeal

Sec. 8. Any licensee, whose license is so cancelled by an order of the Commissioner, shall be notified in writing by registered mail of the cancellation of said license and it shall be unlawful and a violation of this Act for any licensee or buying or transporting agent to operate from and after said notification of cancellation, provided that said licensee or buy-

ing or transporting agent whose license has been so cancelled, shall have the right to appeal from the order of the Commissioner canceling said license, to any court of competent jurisdiction within this State, provided that such appeal shall be filed in said court within ten (10) days from and after receipt by licensee of notice of said cancellation, and provided further that the effect of said appeal by said licensee or licensee's agent shall not act to supersede the order of cancellation issued by the Commissioner, pursuant to final determination of the question of cancellation by said court.

Appeal from Commissioner's ruling

Sec. 9. Any applicant for license whose application is rejected or any dealer who has been licensed hereunder and whose license is subsequently cancelled, may have an appeal from the Commissioner's ruling to any court of competent jurisdiction.

Contracts of purchase; payment to seller; demand for purchase price

Sec. 10. Any dealer who shall cause a producer or seller or owner, or agent of producer, seller or owner, to part with the control or possession of all or any part of his vegetables, and who agrees by his contract of purchase to pay the purchase price upon demand following delivery, shall immediately make payment thereafter to such owner or seller. Demand for the purchase price may be made upon dealer in writing, and the mailing of a registered letter making such demand addressed to said dealer at his business address, shall be prima facie evidence that demand was made upon the mailing of said letter.

Agreement to part with control or possession of vegetables and to waive right to demand purchase price

Sec. 11. When a dealer causes a producer, seller or owner, or agent of producer, seller or owner, to part with the control or possession of all or any portion of his vegetables by means of any agreement under which the producer, seller or owner or agent of producer, seller or owner, has waived the right to demand the purchase price, as and when he parts with said control or possession of vegetables, such agreement for the handling, purchase or sale of vegetables by the dealer and the producer, seller or owner, shall be evidenced in writing in duplicate and shall set out in full the details of such transactions. In the event the agreement does not specify the time and manner of settlement, then the dealer shall settle therefor within thirty (30) days from the delivery of the vegetables into the dealer's control, and the dealer shall then directly account to and pay over to the said producer the full amount called for by the agreement.

Expiration and renewal of license; identification cards; contents; return

Sec. 12. (a) Any license issued hereunder will authorize the licensee and none other, to engage in the business as a dealer for one year from date of issuance, at which time said license shall expire and become null and void. Any license issued to applicant under the provisions of this Act, which expired by its own terms, may be renewed upon payment to the Commissioner of Agriculture of the proper license fee as provided for the original issuance thereof. Said license and the identification cards hereinafter provided shall not be assignable and any attempt to assign same shall void such license or identification card. Upon application to the Commissioner by any licensed dealer, a reasonable number of "buying agent" and "transporting agent" identification cards may be issued and credited to such dealer, under such rules and regulations as said Com-

missioner may prescribe, and said Commissioner is hereby empowered to charge a fee not to exceed One Dollar (\$1) for each card so issued.

(b) Such cards shall bear the name of the licensee, dealer, and the number of his license, also the name of the dealer's agent, and shall state thereon that said licensed dealer, as the principal, has authorized the agent named on the card, the holder thereof, to act for and on behalf of said principal, either as "buying agent" or as "transporting agent" as above defined. "Buying agent" identification cards shall be of a different color from "transporting agent" cards. Such identification cards shall be at all times carried upon the persons of such agents who shall, upon demand, display such cards to the Commissioner or his agents or representatives, or to any person with whom said agent may be transacting business under this Act.

(c) If and when the holder of any identification card ceases to be the agent of the dealer by whom he was employed, it shall be the duty of said agent to return immediately such agent's card to the Commissioner for cancellation, and failure to do so shall constitute a violation of this Act.

Written statement from seller; contents; records

Sec. 13. It shall be unlawful for any dealer, packer, processor or warehouseman to purchase or receive or handle any vegetables without requiring the person from whom such vegetables are purchased or received, to furnish a statement in writing of (a) the owner of such vegetables, (b) the grower of such vegetables, (c) the approximate location of the land where such vegetables were grown, (d) the date such vegetables were gathered, and (e) by whose authority such vegetables were gathered. Such records shall be kept in a permanent book or folder and shall be available to inspection by any interested party.

Investigation of violations; hearings; orders

Sec. 14. For the purpose of enforcing the provisions of this Act, the Commissioner shall, either upon his own initiative or upon the receipt of a properly verified complaint, to investigate all alleged violations of this Act and for the purpose of making such investigation, he shall have, at all times, free and unimpeded access to all books, records, buildings, yards, warehouses, storage, and transportation and other facilities or places in which any vegetables are kept, stored, handled, processed or transported, and in furtherance of such investigation either the Commissioner in person or through his authorized representatives, may examine any portion of the ledger, books, accounts, memorandum, documents, scales, measures and other matters, objects or persons pertinent to such alleged violation under investigation. The Commissioner shall take such action and hold such public hearing as in his judgment are shown to be necessary after such investigations, and shall take the proper action with reference to the cancellation or suspension of the license of any dealer hereunder shown to have been guilty of a violation of the terms of this Act. Such hearings shall be held in the nearest city or town in the county where violations are alleged to have occurred. Any order made by the Commissioner with reference to the revocation or cancellation of any license granted under the provisions of this Act, shall be subject to review by a court of competent jurisdiction.

Consignment or commission basis; record; contents

Sec. 15. Where any vegetables are handled by any dealer upon a consignment or commission basis, unless otherwise agreed in written contract between the dealer and owner, the dealer shall, upon demand of

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

the seller, or owner, his agent or representative, furnish said owner or seller, his agent or representative, a complete and accurate record showing, among other things, the date of sale, to whom sold, the grade and selling price of said vegetables, together with itemized statement showing what expenses of any kind or character incurred in the sale or handling of said vegetables including the commission, if any, to the dealer, and the failure or refusal of such dealer to furnish such information within ten (10) days after such demand by owner or seller, his agent or representative, shall constitute a violation of this Act.

Contracts guaranteeing producer minimum price; commission or service charges

Sec. 16. If a dealer handles vegetables guaranteeing a producer or owner a minimum price, but at the same time handles the vegetables for the account of the producer or owner, said dealer shall include in his contract with the producer or owner, the maximum amount which he shall charge for commission or service, or both, in connection with said vegetables so handled.

Consignments without price guarantee; settlement on basis of grade and quality; inspection

Sec. 17. All vegetables except those obtained and handled by dealers solely on a consignment basis without any price guarantee shall be settled for by every dealer on the basis of the grade and quality which is referred to in the contract pursuant to which the dealer obtained possession or control of such vegetables, unless such vegetables have been inspected by a State or Federal inspector in the State of Texas and found to be of a different grade or quality than that referred to in said contract, in which event same shall be settled for on the basis of the grade and quality determined by such inspector. But nothing herein shall prevent the parties in lieu of such inspection, from agreeing in writing only that the grade or quality of any of such vegetables was different from that referred to in the contract. Failure of the dealer to settle with a producer or seller on grade and quality in the manner herein provided shall constitute a violation of this Act and be punishable as hereinafter provided, and in addition, shall be cause for revocation of license.

Venue

Sec. 18. The venue of any and all criminal acts and civil suits instituted under the provisions of this Act shall be in the county where the violation occurred or where the vegetables were received by the dealer, packer or warehouseman.

Offenses and violations; fines

Sec. 19. From and after the effective date of this Act any person who shall:

(a) Act as a dealer or handler, or both, without first obtaining a license to act as such dealer or handler, or both;

(b) Act or assume to act as a transporting agent or buying agent, without first obtaining from the Commissioner a license or a buying agent's or transporting agent's card as by the terms and provisions of this Act required, shall be fined not to exceed Two Hundred Dollars (\$200), and each day upon which any dealer, handler, buying agent, or transporting agent, shall act or assume to act in violation of the requirements of this Act shall constitute a separate offense.

(1) Any buying or transporting agent who ceases to be employed by, or the agent of the dealer or handler to whom such buying agent's or transporting agents' cards were issued and who fails and refuses on the termination of such employment to turn over to the Commissioner of Agriculture the buying or transporting agent's cards issued to such persons shall be fined not to exceed Two Hundred Dollars (\$200).

(2) Any person who shall act or assume to act as a commission merchant without first filing with the Commissioner of Agriculture of the State of Texas the bond as required by this Act, and obtaining a license to act as such commission merchant shall be fined not to exceed Two Hundred Dollars (\$200), and each day upon which such person shall act or assume to act as such commission merchant shall constitute a separate offense.

(3) Any licensee or any transporting agent or buying agent of any licensee under this Act who shall violate any of the terms and provisions of this Act shall be fined not to exceed Two Hundred Dollars (\$200).

Cash dealers; license

Sec. 20. Any person who purchases vegetables only from dealers duly qualified as such under this Act, and pays therefor prior to or at the time of delivery or taking possession of such vegetables so purchased, in current money of the United States, shall be exempt from giving the bond provided for in this Act and such person shall indicate on his application for license that he desires to operate as a cash buyer, buying only from dealers duly qualified as such under this Act, in accordance with the provisions of this Section and thereupon such person shall be entitled to a license as a cash dealer, purchasing only from dealers duly qualified under this Act, upon the payment by such applicant of the license fee as required under this Act. Such dealer shall be subject to all the pertinent provisions of this Act. Any violation of this Section shall be deemed a misdemeanor and be punishable, as provided in Section 19 of this Act.

Any producer handling or dealing in his own products exclusively, shall be licensed, upon application, by the Commissioner of Agriculture without charge and without being required to give bond.

Citrus fruit dealers; license and surety bond

Sec. 21. Any person who comes within any of the classifications set out in House Bill No. 99, Acts, Regular Session, Forty-fifth Legislature, or any amendments thereto,¹ wherein a surety bond of Twenty-five Thousand Dollars (\$25,000) is required of him, that classification shall be permitted to have one Twenty-five Thousand Dollars (\$25,000) surety bond to be worded as to guarantee faithful performance of all of the provisions of both House Bill No. 99, Acts, Regular Session, Forty-fifth Legislature, as amended, and this Act, and such bond to be in such form as the Commissioner of Agriculture may prescribe, and any person who elects to have one surety bond of Twenty-five Thousand Dollars (\$25,000) to guarantee faithful performance under both of said Acts shall be liable for only one license fee of Twenty-five Dollars (\$25), and his license shall reflect the fact that he is licensed thereby to handle both citrus fruits and vegetables.

¹ Article 118b.

Repealer

Sec. 22. Chapter 443, Acts of the Forty-fifth Legislature, 1937, as amended,² is hereby repealed; provided that any rights accrued under

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

such Act shall not be impaired, and any judicial or administrative proceedings in progress shall be in full force and effect. Nothing in this Act shall affect Section 2 of Chapter 306, Acts of the Fifty-fifth Legislature, 1957.³

² Article 1287—1, §§ 1-9.

³ Article 1287—1, § 10.

Trusts, monopolies and conspiracies against trade; conflicts with laws

Sec. 23. Nothing in this Act shall ever be construed as amending, modifying, suspending, or repealing any of the laws of this State defining and prohibiting trusts, monopolies, and conspiracies against trade, with particular reference to Chapter 3, Title 19, Penal Code of this State, and Title 126, Revised Civil Statutes of Texas, 1925; and should this Act in any manner conflict with or alter, repeal, change, modify, or affect, or attempt to alter, repeal, change, modify or affect the above-mentioned Statutes or any sentence, section, clause, phrase or word thereof, this entire Act shall fail and be held for naught.

Partial invalidity

Sec. 24. Should any word, phrase, sentence, paragraph or section of this Act be declared unconstitutional, it is hereby declared to be the intention of the Legislature to have passed the remainder of this Act in its entirety despite any such holding as to unconstitutionality. Acts 1963, 58th Leg., p. 598, ch. 218.

Citrus fruit growers act, see art. 118b.

TITLE 31. CONVEYANCES

Art. 1291a.	Abolition of rule in Shelley's case, the rule forbidding a remainder to the grantor's heirs, and the doctrine of worthier title [New].	Art. 1301a.	Condominium Act [New].
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Art. 1288. [1103] [624] [548] Instrument of conveyance

Sale of homestead, see art. 4618.

Art. 1291a. Abolition of rule in Shelley's case, rule forbidding remainder to grantor's heirs, and doctrine of worthier title

The rules of the common law known as The Rule in Shelley's Case, the Rule Forbidding a Remainder to the Grantor's Heirs, and The Doctrine of Worthier Title are hereby declared to be no longer operative in this State. If, in any deed, will, or other conveyance of real or personal property in this State, an interest is limited, mediately or immediately, to any particular person or persons, or to any such class as the heirs, heirs of the body, issue, or next of kin of the conveyor or of any person to whom a particular interest in the same property is limited, such conveyance shall be given effect according to the intention of the conveyor. No person's claim of right to take or share in such interest as a conveyee shall be affected by such person's status as heir or next of kin of the conveyor. No person shall be denied the right to take or share in such interest as a conveyance merely by reason of the fact that such person is not identified or described in the conveyance otherwise than as a member of a class of persons, howsoever the class may be designated. Subject to the principle that within the limits prescribed by law the intention of the conveyor shall be controlling, the members of any such class of persons as those heretofore mentioned and their participation in the interest limited to the class shall be ascertained in the light of the statutes of this State governing descent and distribution. Acts 1963, 58th Leg., p. 542, ch. 199, § 1.

Effective Jan. 1, 1964.

Acts 1963, 58th Leg., p. 542, ch. 199, §§ 2, 3 provided:

"Sec. 2. This Act shall become effective January 1, 1964.

"Sec. 3. This Act shall not apply to conveyances taking effect prior to the effective date of this Act. The provisions of this Act shall not affect the laws against perpetuities."

Determination of heirship, see V.A.T.S. Probate Code, § 48 et seq.

Estates in futuro, see art. 1296.

Execution of wills, see V.A.T.S. Probate Code, § 57.

Passage of title upon intestacy and under a will, see V.A.T.S. Probate Code, § 37.

Title of Act:

An Act abolishing The Rule in Shelley's Case, The Rule Forbidding a Remainder to the Grantor's Heirs, and the Doctrine of Worthier Title; and declaring an emergency. Acts 1963, 58th Leg., p. 542, ch. 199.

Art. 1299. Repealed. Acts 1963, 58th Leg., p. 1189, ch. 473, § 1. Eff. 90 days after May 24, 1963, date of adjournment

Power and capacity of married woman to contract and be contracted with, see art. 4626.

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

Art. 1300. [1115] [636] [560] Conveyance of homestead

Sale of homestead, see art. 4618.

Art. 1301a. Condominium Act

Title

Section 1. This Act shall be known as the "Condominium Act."

Definitions

Sec. 2. As used in the Act unless the context otherwise requires:

(a) "Property" means and includes the land whether leasehold or in fee simple and the building, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto.

(b) "Building" includes the principal structure or structures erected or to be erected upon the land described in the declaration provided for in Section 7 which determines the use to be made of the improved land whether or not such improvement is composed of one (1) or more separate buildings containing one (1) or more floors or stories.

(c) "Condominium Project" means a real estate condominium project; a plan or project whereby four (4) or more apartments, rooms, office spaces, or other units in existing or proposed buildings or structures are offered or proposed to be offered for sale.

(d) "Condominium" means the separate ownership of single units or apartments in a multiple unit structure or structures with common elements.

(e) "Apartment" means an enclosed space consisting of one (1) or more rooms occupying all or part of a floor in a building of one (1) or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry business, or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.

(f) "Developer" means a person who undertakes to develop a real estate condominium project.

(g) "Master deed" or "Master lease" or "Declaration" means the deed, lease or declaration establishing the property as a condominium regime.

(h) "Co-owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns an apartment or apartments within the condominium project.

(i) "Council of co-owners" means all the co-owners as defined in subsection (h) of this section.

(j) "Majority of co-owners" means the apartment owners with fifty-one percent (51%) or more of the votes weighed so as to coincide with percentages or fractions assigned in the declaration.

(k) "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof.

(l) "General common elements" means and includes:

(1) The land, whether leased or in fee simple, on which the building stands;

(2) The foundations, bearing walls and columns, roofs, halls, lobbies, stairways, and entrances and exits or communication ways;

(3) The basements, flat roofs, yard, and gardens, except as otherwise provided or stipulated;

(4) The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;

(5) The compartments or installation of central services such as power, light, gas, cold and hot water, refrigeration, central air condition and central heating, reservoirs, water tanks and pumps, swimming pools, and the like;

(6) The elevators and shafts, garbage incinerators and, in general all devices or installations existing for common use; and

(7) All other elements of the building desirable or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime, and any other elements described in the declaration filed pursuant to Section 7.

(m) "Limited common elements" means and includes those common elements which are agreed upon by all of the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like.

(n) "To record" means to record in the office of the County Clerk of the county in which the property is situated in accordance with the provisions of Title 115, Revised Civil Statutes of Texas, 1925, as amended.

(o) All pronouns used herein include the singular or plural numbers, as the case may be.

Condominium regime; declaration

Sec. 3. When a developer, the sole owner, or the co-owners of a building or buildings or proposed building or buildings expressly declares, through the recordation of a master deed, lease, or declaration, which shall set forth the particulars enumerated by Section 7 their desire to submit their property to the regime established by this Act, there shall be thereby established a condominium regime.

Conveyance and encumbrance of individual apartment

Sec. 4. Once the property is submitted to the condominium regime, an apartment in the project may be individually conveyed and encumbered and may be the subject of ownership, possession or sale and of all types of judicial acts, as if it were entirely independent of the other apartments in the project of which they form a part, and the corresponding individual titles and interests shall be recordable.

Joint or common ownership of apartment

Sec. 5. Any apartment may be jointly or commonly owned by more than one person.

Exclusive ownership of apartment; share in common elements of property

Sec. 6. An apartment owner shall have an exclusive ownership to his apartment and shall have a common right to a share, with other co-owners, in the common elements of the property. Each co-owner may use the elements held in common in accordance with the purpose for which they are intended, as shown on the plat or expressed in the declaration or the by-

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

laws, without hindering or encroaching upon the lawful rights of the other co-owners.

Condominium records; contents of declaration; recordation of instruments

Sec. 7. (A). Every County Clerk shall provide a suitable well-bound book, to be called "Condominium Records" in which will be recorded Master deeds, Master leases, or Declarations.

(B) The declaration provided for in Section 3 shall contain:

(1) The legal description of the land, which description shall be depicted by a plat showing the land involved and the location of each building or proposed building to be located thereon. Each building to be denoted by Letter, viz: A, B, C, etc.

(2) The general description and the number of each apartment, expressing its square footage, location and any other data necessary for its identification, which information will be depicted by a plat of such floor of each building showing also the letter of the building, the number of the floor and the number of the apartment.

(3) The general description of each garage, carport, or any other area to be subject to individual ownership and exclusive control; which information will be depicted by a plat showing such garage, carport, or other area appropriately lettered or numbered.

(4) The description of the general common elements less paragraph (1) above.

(5) The description of the limited common elements.

(6) The fractional or percentage interest which each apartment bears to the entire condominium regime, the sum of which shall be one (1) if expressed in fractions and one hundred (100) if expressed in percentages.

(7) Any further provisions, matters, or covenants desired.

(C) The County Clerk shall record such plats and instruments without the necessity of prior approval by any other authority of whatsoever character.

Common elements; partition or division; mortgages

Sec. 8. The common elements, both general and limited, shall remain undivided and shall not be the object of an action for partition or division of the co-ownership so long as suitable for a condominium regime, and, in any event, all mortgages must be paid prior to the bringing of an action for partition or the consent of all mortgagees must be obtained. Any covenant to the contrary shall be void.

Deed to apartment; contents and interpretation

Sec. 9. The deed to each apartment shall describe the apartment in accordance with the plat and the fractional or percentage therein conveyed and the plats provided in Section 7 shall be included by reference. The deeds shall also express all encumbrances against the property conveyed. An individual apartment shall not be conveyed separate from the undivided interest in the common elements and visa versa, and any conveyance of an individual apartment shall be deemed to convey also the undivided interest of the owner in the common elements, both general and limited, appertaining to said apartment without specifically or particularly referring to the same. The boundaries of the apartment granted shall be and are the interior surfaces of the perimeter walls, floors, ceilings

and the exterior surfaces of balconies and terraces; and the unit includes both the portions of the building so described and the airspace so encompassed, excepting common elements. In interpreting deeds, mortgages, deeds of trust and other instruments, the existing physical boundaries of the apartment or of an apartment reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries regardless of settling, rising, or lateral movement of the building and regardless of variances between boundaries shown on the plat and those of the building.

Loans as eligible investments for lending institutions

Sec. 10. Loans on the individual apartments and the undivided interest in the common elements appurtenant thereto are hereby declared to be eligible investments for all banks, savings and loan or building and loan associations, trust companies, life insurance companies and all other lending institutions which will include also administrators, guardians, executors, trustees and other fiduciaries, which are now or may be hereafter authorized to make real estate loans. For the purpose of such investments, an apartment and the undivided interest in the common elements appurtenant thereto shall be deemed a single unit as if it were entirely independent of the other units in the project of which it forms a part. In determining eligibility the existence of any prior lien for taxes, assessments (including but not limited to those for administration, maintenance and repairs) or other similar charges not yet delinquent shall not be considered in determining whether a mortgage or deed of trust upon such security is a first lien. This section shall not change any provision of law, which would otherwise be applicable, specifying limitation on mortgage investments based upon a special fraction or percentage of the value of the mortgaged property.

Regrouping and merger of estates

Sec. 11. All of the co-owners or the sole owner of a building constituted into a condominium regime may waive this regime and request the County Clerk to regroup or merge the records of the filial estates with the principal property, provided, that the filial estates are unencumbered, or, if encumbered, that the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors. The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common elements.

Reconstitution of property into condominium regime

Sec. 12. The merger provided for in Section 11 shall in no way bar the subsequent constitution of the property into another condominium regime whenever so desired and upon observance of the provisions of this Act.

Administration of project; bylaws; council of co-owners

Sec. 13. The administration of every building or buildings constituted into a condominium regime shall be governed by the by-laws approved and adopted by the sole owner or owners or the council of co-owners. The by-laws may be amended from time to time by the council.

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

Board of administrators; account of receipts and expenditures; examination; audit

Sec. 14. The administrator, or board of administration, or the person appointed by the by-laws of the regime shall keep or cause to be kept a book with a detailed account of the receipts and expenditures affecting the building and its administration and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or in behalf of the regime. Both the book and vouchers accrediting the entries made thereon shall be available for examination by all the co-owners at convenient hours on working days that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good accounting procedures and be audited at least once a year by an auditor outside of the organization.

Pro-rata contributions of co-owners toward expenses

Sec. 15. All co-owners are bound to contribute pro-rata toward the expense of administration and of maintenance and repairs of the general common elements, and, in the proper case, of the limited common elements of the building, and toward any other expenses lawfully agreed upon by the council of co-owners. No owner shall be exempt from contributing toward such expenses by waiver of the use of enjoyment of the common elements, either general or limited, or by abandonment of the apartment belonging to him.

Actions on behalf of two or more apartment owners

Sec. 16. Without limiting the rights of any apartment owner, action may be brought by the administrator or other person designated by the by-laws or council of co-owners, in either case in the discretion of the council of co-owners, on behalf of two (2) or more of the apartment owners, as their respective interests may appear, with respect to any cause of action relating to the common elements of more than one (1) apartment.

Home exemptions from property taxes

Sec. 17. The laws relating to home exemptions from property taxes shall be applicable to the individual apartments, which shall be entitled to home exemptions in those cases where the owner of a single family dwelling would qualify.

Payment of assessments or charges upon sale or conveyance of apartment; preferences

Sec. 18. Upon the sale or conveyance of an apartment, all unpaid assessments against a co-owner for his pro-rata share in the expenses to which Section 15 refers shall first be paid out of the sale price or by the purchaser in preference over any other assessments or charges of whatever nature except the following:

(a) Assessments, liens, and charges in favor of the state and any political subdivision thereof for taxes past due and unpaid on the apartment; and

(b) Amounts due under mortgage instruments duly recorded.

Insurance

Sec. 19. The co-owners may, upon resolution of a majority, or if required or provided for in the declaration or the by-laws, insure the building and the owners thereof against risks of whatsoever character without prejudice to the right of each co-owner to insure his apartment

on his own account and for his own benefit. Such insurance may be written in the name of the council of co-owners, or any person designated in the by-laws or declaration, as trustee for each apartment owner and each apartment owner's mortgagee, if any. Each co-owner and his mortgagee, if any, shall be a beneficiary, even though not named, in the percentages or fractions established in the declaration.

Application of insurance proceeds to reconstruction of building

Sec. 20. In case of fire or any other disaster, the insurance indemnity shall, except as provided in the next succeeding paragraph of this section, be applied to reconstruct the building.

Reconstruction shall not be compulsory where it comprises the whole or more than two-thirds ($\frac{2}{3}$) of the building as determined by the council of co-owners. In such case, and unless otherwise unanimously agreed upon by the co-owners, the indemnity shall be delivered pro-rata to the co-owners or their mortgagees, as their interest may appear, entitled to it in accordance with the percentages or fractions set forth in the declaration.

Should it be proper to proceed with the reconstruction, the provisions for such eventuality made in the by-laws shall be observed, or in lieu thereof, the decision of the council of co-owners shall prevail.

Building costs in excess of insurance proceeds

Sec. 21. Where the insurance indemnity is insufficient to cover the cost of reconstruction and reconstruction is required by Section 20, the building costs in excess of the insurance proceeds shall be paid by all the co-owners directly affected by the damage, in proportion to the percentages or fractions assigned to their respective apartments, or as may be provided by said by-laws; and if any one or more of those composing the minority shall refuse to make such payments the majority may proceed with the reconstruction at the expense of all the co-owners benefited thereby, upon proper resolution setting forth the circumstances of the case and the cost of the work.

The provisions of this section may be changed by unanimous resolution of the parties concerned, adopted subsequent to the date on which the fire or other disaster occurs.

**Taxes, assessments and charges; valuation of apartments;
delinquent taxes**

Sec. 22. Taxes, assessments and other charges of this state, or of any political subdivision, or of any special improvement district, or any other taxing or assessing authority shall be assessed against and collected on each individual apartment, which shall include the garage and its percentage or fractional common elements, each of which shall be carried on the tax books as a separate and distinct entity for that purpose, and not on the building or property as a whole. The valuation of the general and limited common elements shall be assessed separately to each owner in accordance with the fraction or percentage of each owner. There shall be no forfeiture or sale of the building or property as a whole for delinquent taxes, assessments or charges. All assessments, suits and sales shall be of individual apartments, including its garage and its percentage or fractional common elements.

Planning and zoning commissions; supplemental rules and regulations

Sec. 23. Whenever they deem it proper, the planning and zoning commission of any county or municipality may adopt supplemental rules

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

and regulations governing a condominium regime established under this Act in order to implement this program; however, local zoning ordinances shall be construed to treat like structures, lots, or parcels in like manner regardless of whether the ownership thereof is divided by sale of condominiums rather than by lease of apartments, offices, stores or industry business.

Conflicting laws

Sec. 24. Whenever the application of the provisions of this Act or the application thereof to any person or circumstance conflict with the application of other statutory provisions, the provisions or applications of this Act shall prevail for the effective carrying out of the purposes of this Act.

Partial invalidity

Sec. 25. If any section, paragraph, sentence, clause, or word of this Act is held to be unconstitutional, the remaining portion of the same, nevertheless shall be valid, and the Legislature hereby declares that the Act would have been enacted without such unconstitutional portion. Acts 1963, 58th Leg., p. 507, ch. 191.

Effective 90 days after May 24, 1963, date of adjournment.

Banks, loans and investments, see art. 342-501 et seq.

Fire insurance policies, see V.A.T.S. Insurance Code, art. 5.35.

Homestead exemption, see art. 3839.

Insurance, interest of mortgagee or trustee, see V.A.T.S. Insurance Code, art. 6.15.

Landlord and tenant, see art. 5222 et seq.

Property subject to taxation and rendition, see art. 7145 et seq.

Real estate investment trusts, see art. 6138A.

Registration, see art. 6591 et seq.

Savings and loan associations, loans and investments, see art. 852a, § 5.01 et seq.

BUSINESS CORPORATION ACT

PART ONE

Miscellaneous corporation laws, see Vernon's Ann.Civ.St. arts. 1302—1.01 to 1302—6.26.

PART EIGHT

Art. 8.03. Corporate Name of Foreign Corporation

A. No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

(1) Shall contain the word "corporation," "company," "incorporated," or "limited," or shall contain an abbreviation of one (1) of such words, or such corporation shall, for use in this state, add at the end of its name one (1) of such words or an abbreviation thereof.

(2) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or of any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved or registered in the manner provided in this Act; provided that a name may be similar if written consent is obtained from the existing corporation having the name deemed to be similar or the person, or corporation, for whom the name deemed to be similar is reserved or registered in the office of the Secretary of State. In the event that such consent is not given, a certificate of authority shall be issued as provided in this Act to any foreign corporation having a name the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or of any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved or registered in accordance with this Act, provided such foreign corporation files an assumed name certificate, setting forth a different name, with the Secretary of State and with county clerks as provided by Article 5924, Revised Civil Statutes of Texas, 1925, as amended, and provided further, that no such foreign corporation shall transact or conduct any business in this state except under such assumed name. As amended Acts 1961, 57th Leg., p. 423, ch. 206, § 4; Acts 1963, 58th Leg., p. 1310, ch. 500, § 1.

Emergency. Effective June 11, 1963.

Business under assumed name, see Vernon's Ann.Civ.St. art. 5924.

Foreign insurance corporations, see V.A. T.S. Insurance Code, art. 21.43.

TEXAS NON-PROFIT CORPORATION ACT

Acts 1959 (56th Leg.) ch. 162, arts. 1.01 to 11.01, has been reallocated to Articles 1396—1.01 et seq.

TITLE 32—CORPORATIONS

CHAPTER ONE—TEXAS MISCELLANEOUS
CORPORATION LAWS ACT

Art.
1302—2.06. Consideration of indebtedness;
liability for indebtedness of
parent, subsidiary or affiliat-
ed corporation [New]

Art. 1302—2.06. Consideration for indebtedness; liability for indebted-
ness of parent, subsidiary or affiliated corporation

A. No corporation, domestic or foreign, doing business in this state shall create any indebtedness whatever except for money paid, labor done, which is reasonably worth at least the sum at which it was taken by the corporation, or property actually received, reasonably worth at least the sum at which it was taken by the corporation, subject to the provisions of Section B below. In the absence of fraud in the transaction, the judgment of the Board of Directors or the shareholders, as the case may be, as to the value of the consideration received for any such indebtedness shall be conclusive. As amended Acts 1963, 58th Leg., p. 1184, ch. 469, § 2.

B. (1) Notwithstanding Section A of this Article, any corporation, domestic or foreign, doing business in this state shall be authorized by express written contract or agreement, to become liable upon, to guarantee, to mortgage, pledge or make itself or its assets responsible for the lawful indebtedness of any subsidiary, parent or affiliated corporation of the corporation acting hereunder, as those terms are defined in this Section B, when such action is approved by the Board of Directors of the acting Corporation.

(2) A "subsidiary corporation" solely for the purpose of this Section B, shall mean a corporation, 100% of the outstanding stock of which, at the time of such action, is owned by the corporation acting hereunder.

(3) A "parent corporation," solely for the purpose of this Section B, shall mean a corporation which owns 100% of the outstanding stock, at the time of such action, of the corporation acting hereunder.

(4) An "affiliated corporation," solely for the purpose of this Section B, shall mean a corporation, 100% of the outstanding stock of which, at the time of such action, is owned by the parent corporation of the corporation acting hereunder.

(5) If, as a result of any action authorized under subsection (1) above, any corporation shall actually pay any indebtedness of any parent, subsidiary or affiliated corporation, or any of its assets shall be taken or sold upon execution or other judicial process or foreclosure and the proceeds thereof applied upon indebtedness of a parent, subsidiary or affiliated corporation, then in any such event the corporation acting hereunder shall have a cause of action against such parent, subsidiary or affiliated corporation for the amount of the indebtedness of said parent, subsidiary or affiliated corporation so paid by the corporation acting hereunder or paid out of proceeds of its assets so taken or sold, less credit for any proper offsets to which the parent, subsidiary or affiliated corporation is entitled as against the corporation acting hereunder.

(6) Nothing in this Section B is intended or shall be construed to limit or deny to any corporation, domestic or foreign, the right or power

to do or perform any action which it is or may be empowered or authorized to do or perform under any other laws of the State of Texas now in force or hereafter enacted. Added 1963, 58th Leg., p. 1184, ch. 469, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 1302—3.02. Educational Corporations

State institutions of higher learning operating atomic energy reactors, liability insurance, see art. 4590g.

Art. 1302—5.04. Authority to Disclose

Banks, disclosure as to amount deposited to third parties, see art. 342—709.

Art. 1302—6.04. Corporation not forbidden to treat registered holder as owner; rights of survivorship

A. Nothing in this part shall be construed as forbidding a corporation;

(1) To recognize the exclusive right of a person registered on its books as the owner of shares.

B. Whenever shares are registered on the books of a corporation in the names of two or more persons as joint owners with the right of survivorship, upon the death of any such joint owner, the surviving joint owner or owners shall have the power to transfer full legal and equitable title to such shares to any person, firm or corporation and may receive any dividends declared upon said shares as if such surviving joint owner or owners were the absolute owners of such shares prior to such time as the corporation receives actual written notice that parties other than such surviving joint owner or owners claim an interest in such shares or dividends, and the corporation permitting such transfer by and paying such dividends to such surviving joint owner or owners prior to the receipt of such written notice from other parties claiming an interest in such shares or dividends shall be discharged from all liability for the transfer or payment so made; provided, however, that the discharge of such corporation from liability and the transfer of full legal and equitable title of the shares shall in no way affect, reduce or limit any cause of action existing in favor of any owner of an interest in such shares or dividends against such surviving joint owner or owners. As amended Acts 1963, 58th Leg., p. 1162, ch. 451, § 1.

Emergency. Effective June 10, 1963.

Distribution to shareholders of cash or property held in suspense, escrow or trust by business organizations or associations, see art. 1358a.

CHAPTER THREE—GENERAL PROVISIONS

Art.

1358a. Distribution to shareholders of cash or property held in suspense, escrow or trust [New].

Art. 1348. Repealed. Acts 1963, 58th Leg., p. 1184, ch. 469, § 1. Eff. 90 days after May 24, 1963, date of adjournment

See, now, art. 1302—2.06.

Art. 1358a. Distribution to shareholders of cash or property held in suspense, escrow or trust [New]

Section 1. This Section shall apply to all distributions of cash or property, tangible or intangible, made or payable, by any corporation, joint stock company or business trust having transferable shares or certificates of beneficial interest, organized under the laws of this state or substantially all of whose capital or assets consisted of property located in this state at the time of organization, to persons registered on its books as the owners of shares or certificates, whether in liquidation or from earnings, profits, assets or capital, and including all such distributions heretofore payable which were not paid to the person registered as the owner of the shares or interest on the records of such organization at the time such distributions were payable, or to the heirs, successors or assigns of such person, but which are now being held in suspense by such organization or which were paid or delivered by it into an escrow account or to a trustee or custodian. All such distributions or the avails thereof shall, subject to the provisions of this Section, be payable by such organization, escrow agent, trustee or custodian to such registered person, his heirs, successors or assigns, from and after the effective date of this Act. The person in whose name such shares or certificates are or were registered on the records of any such organization at the time such distributions are or were payable shall be presumed to be or to have been the owner of the shares or certificates so registered in his name at that time, and this presumption shall be rebuttable only by proof of an actual transfer having been made by such registered owner prior to that time to some known and identifiable person or persons. No such organization nor its trustees, officers, directors, or agents shall be under any liability whatever for making such distributions to a person in whose name shares or certificates were registered on its records at the time such distribution was payable to such person, or to the heirs, successors or assigns of such person, even though such person, or his heirs, successors or assigns, may not have a certificate for shares or of beneficial interest in his or their possession, unless, prior to the date any such distribution is or was payable, written notice shall have been given to such organization by a third party that he is the true beneficial owner of the shares or interest registered on its books in the name of another, and such person shall, thereafter, supply such organization with satisfactory proof of his ownership or, in the absence of such proof, shall thereafter establish by final judgment of a court of competent jurisdiction that he is the unregistered owner of such shares or interest entitled to receive such distribution thereon.

Any claim that may be asserted under the provisions hereof by any person, other than the person in whose name the transferable shares or interest were registered on the records of such organization at the time

such distribution was payable, for any such distribution on shares of or beneficial interest in such organization shall not be enforceable against such organization, its trustees, officers, directors, or agents, or against the person, his heirs, successors or assigns, in whose name the shares or interest were registered and to whom distribution was made, except by a proceeding in a court of competent jurisdiction commenced within four years from the time that such distribution was originally payable by such organization establishing by a final judgment that the claimant was entitled to receive such distribution, provided that as to any aforesaid cause of action heretofore accrued, the limitation period applicable thereto shall be either one year from the effective date of this Act or four years from the time such distribution was originally payable, whichever is longer. Acts 1963, 58th Leg., p. 1146, ch. 444.

Emergency. Effective June 10, 1963.

Corporation not forbidden to treat registered holder as owner, see art. 1302—6.04.

Unincorporated joint stock companies, see art. 6133 et seq.

Dividends of business corporations, see V.A.T.S. Bus.Corp.Act, art. 2.38.

CHAPTER TEN—PUBLIC UTILITIES

Art. 1440. Deposit for installing service

Every person, firm, company, corporation, receiver or trustee engaged in the furnishing of water, light, gas or telephone service which requires the payment on the part of the user of such service a deposit of money as a condition precedent to furnishing the same, shall pay six per cent (6%) interest per annum on such deposit to the one making same, or to his heirs or assigns, from the time of such deposit, the same to be paid annually on demand or sooner if such service be discontinued. When such service is discontinued, such deposit, together with any unpaid interest thereon, or such part of such deposit and unpaid interest, not consumed in bills due for such service, shall be returned to such depositor, his heirs or legal representatives. As amended Acts 1963, 58th Leg., p. 50, ch. 32, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER TWELVE—BRIDGES, FERRIES AND CAUSEWAYS

Bond issue to refund outstanding causeway revenue bonds, see art. 795a.

CHAPTER SEVENTEEN—TRUST COMPANIES AND INVESTMENTS

Art. 1513. Trust companies

Exemption of persons doing business as trust company from provisions of the Texas Regulatory Loan Act, see art. 6165b, § 6.

Art. 1514. Purpose

Exemption of persons doing business as agricultural finance corporation from pro-

visions of the Texas Regulatory Loan Act, see art. 6165b, § 6.

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

Art. 1524a. Corporations for loaning money and dealing in bonds and securities without banking and discounting privileges; regulations

Inapplicability of article 1524a to licensees under the Texas Regulatory Loan Act where inconsistent with the Act, see Article 6165b, § 29.

Art. 1524a—1. Repealed. Acts 1963, 58th Leg., p. 550, ch. 205, § 30.
Eff. 90 days after May 24, 1963, date of adjournment

See, now, the Texas Regulatory Loan Act, art. 6165b.

CHAPTER EIGHTEEN—MISCELLANEOUS

Art.
1528d. Automobile Club Services Act
[New].

Art. 1528d. Automobile Club Services Act

Short title

Section 1. This Act shall be known and cited as the Automobile Club Services Act.

Definitions

Sec. 2. (a) "Automobile Club" shall mean any person who in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to travel and the operation, use or maintenance of a motor vehicle in the supplying of services which by way of illustration and not by way of limitation may include such services as community traffic safety service, travel and touring service, theft or reward service, map service, towing service, emergency road service, bail bond service and legal fee reimbursement service in the defense of traffic offenses, and the purchase of accidental injury and death benefits insurance coverage from a duly authorized insurance company.

(b) "Person" shall mean any person, firm, partnership, corporation or association which conducts an Automobile Club Service business in this State.

Certificate of authority required

Sec. 3. From and after the effective date of this Act, it shall be unlawful for any person to engage in the business of an Automobile Club as herein defined, without having first met the requirements and obtained a certificate of authority from the Secretary of State as hereinafter provided for. The Secretary of State shall promulgate, prescribe and furnish such forms as may be necessary for any applicant to meet the requirements of this Act and shall furnish such forms, upon request, to those applicants requesting such forms; provided, however, nothing herein shall relieve any Automobile Club from the obligation to furnish services under such contracts or membership agreements that have been entered into prior to the effective date of this Act.

Application for certificate of authority and deposit of security

Sec. 4. The application for a certificate of authority as an Automobile Club to be filed with the Secretary of State shall be in such form and detail as the Secretary of State may require and shall be executed under

oath by such Club's president or other principal officer and there shall be filed with the application the following:

(a) If such Club is a corporation, a certificate from the Secretary of State that it has complied with the corporation laws of this State.

(b) If not incorporated, a list of all persons owning an interest in the Automobile Club, the officers thereof and the parties to any operating agreement or management agreement affecting the Automobile Club together with a copy of any such agreement.

(c) The first year's annual license fee in the amount of One Hundred Dollars (\$100) shall accompany such application.

(d) Proof of security having been deposited with the State or pledged by the Club in such form as the Secretary of State may prescribe in any of the following ways: The sum of Twenty-five Thousand Dollars (\$25,000) in cash or Twenty-five Thousand Dollars (\$25,000) in securities approved by the Secretary of State or in lieu thereof, a bond in such form as the Secretary of State may prescribe in the amount of Twenty-five Thousand Dollars (\$25,000) to the State of Texas and executed by a corporate surety licensed to do business in the State of Texas and conditioned upon the faithful performance in the selling or rendering of Automobile Club service and payment of any fines or penalties levied against it for failure to comply with the provisions of this Act; provided however, that the aggregate liability of the surety for all breaches of the conditions of the bond and for the payment of all fines and penalties shall, in no event, exceed the amount of said bond.

Upon filing of the application, certificates or security as above provided for, it shall be the duty of the Secretary of State within fifteen (15) days thereafter to issue or deny a certificate of authority to said Automobile Club. Failure of the Secretary of State to issue such certificate within said fifteen (15) day period shall entitle the applicant to a refund of all moneys and security deposited with the application.

The deposit herein provided for shall thereafter be maintained so long as said Club shall have outstanding any liability or obligation in this State. Upon proper showing, to the satisfaction of the Secretary of State, that the Club has ceased to do business and that all liabilities and obligations of the Club have been satisfied, the Secretary of State is hereby authorized to return the security to the Club or to deliver the security in accordance with any order of a court of competent jurisdiction.

Certificate of authority—annual renewal required

Sec. 5. Every certificate of authority issued hereunder shall expire annually on August 31, of each year unless sooner revoked or suspended as hereinafter provided and application for renewal of such certificate of authority shall be filed upon such forms as are provided by the Secretary of State and shall contain such information as the Secretary of State may prescribe. The annual license fee for renewal of such certificate of authority shall be One Hundred Dollars (\$100).

Registration of salesmen or agents

Sec. 6. Each and every Automobile Club operating in this State pursuant to a certificate of authority issued hereunder shall within thirty (30) days of the date of employment, file with the Secretary of State a notice of appointment of salesmen or agents by an Automobile Club to sell memberships in the Automobile Club to the public. This notification shall be upon such form as the Secretary of State may prescribe and shall con-

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

tain the name, address, age, sex and social security number of such salesman or agent, and also contain proof satisfactory to the Secretary of State that such applicant is of good moral character. Upon termination of any salesman's or agent's employment by an Automobile Club, such Automobile Club shall within thirty (30) days thereafter notify the Secretary of State of such termination. The registration fee for salesmen or agents of Automobile Clubs shall be Three Dollars (\$3) annually and shall be renewed each twelve (12) months after its issuance.

Revocation or suspension of certificate

Sec. 7. If the Secretary of State at any time for good cause shown, and after public hearing, shall determine that an Automobile Club has violated a provision of this Act, that it is not operating an Automobile Club as defined herein, that it is insolvent, that its assets are less than its liabilities, that it refuses to submit to an examination by the Secretary of State, that it is transacting business fraudulently, or that any owner, officer or operating manager is not of good moral character, he shall thereupon revoke or suspend its certificate of authority and shall give notice thereof to the public in such manner as he shall deem proper; provided however, that any person aggrieved by any decision of the Secretary of State shall have the right to appeal such decision to the District Court in the county of the aggrieved person's residence within sixty (60) days after the date of notice by registered mail of such decision but not thereafter.

Advertising limitation—exemptions

Sec. 8. (a) Automobile Clubs operating hereunder shall make no reference to their certificate of authority or approval from the Secretary of State in any advertising, circular, contract or membership card nor shall such Automobile Clubs advertise or describe their services in such a manner as would lead the public to believe such services include automobile insurance.

(b) All Automobile Clubs operating pursuant to a certificate of authority issued hereunder shall be exempt from the operation of all insurance laws of this State, except that accidental injury and death benefits furnished members of such Automobile Clubs shall be covered under a group policy issued to the Automobile Club for the benefit of its members and such policy shall be issued by a company licensed to write such insurance in this State. Any such group policy issued to the Automobile Club shall be evidenced to the membership of said Club by a certificate of participation in said group policy that shall state on the face of said certificate in at least fourteen-point black bold-face type that the certificate is only a "certificate of participation in an accidental injury and death group policy and is not automobile liability insurance coverage."

Members to be furnished description of services

Sec. 9. Every Automobile Club operating under the provisions of this Act shall furnish to its members a service contract or membership card together with the following information:

(a) The exact name of the Automobile Club.

(b) The exact location of the Automobile Club's home office, and of its usual place of business in this State, giving street, number and city.

(c) A description of the services or benefits to which the member is entitled.

(d) The completed application and the description of services shall constitute the service contract.

Secretary of State to be furnished service contract

Sec. 10. Every Automobile Club operating under the provisions of this Act shall furnish to the Secretary of State a certified copy of the service contract and if said Club provides participation in a group accidental injury or death policy, then a copy of the certificate of participation furnished the member shall be filed with the certified copy of the service contract together with the following information:

(a) The exact name of the Automobile Club.

(b) The exact location of the Automobile Club's home office, and of its usual place of business in this State, giving street, number and city.

(c) Any change, addition or supplement to the service contract, change of office location or change of name shall be filed with the Secretary of State.

Fees

Sec. 11. All fees collected hereunder by the Secretary of State shall be deposited with the State Treasurer to the credit of the General Revenue Fund.

Solicitation for unauthorized Automobile Clubs prohibited

Sec. 12. No person shall solicit, or aid in the solicitation of, another person to purchase a service contract or membership issued by an Automobile Club not holding a valid certificate of authority under the terms of this Act.

Penalties

Sec. 13. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars (\$500), and by imprisonment in the county jail for not more than six (6) months.

Severability clause

Sec. 14. If any word, phrase, sentence or provision of this Act is determined to be invalid, such invalidity shall not affect the other provisions of this Act and they shall be given effect without the invalid provision, and to this end the provisions of this Act are declared to be severable.

Effective date

Sec. 15. This Act shall become effective from and after September 1, 1963. Acts 1963, 58th Leg., p. 678, ch. 250.

Effective Sept. 1, 1963.

Motor vehicle or automobile insurance, see V.A.T.S. Insurance Code, art. 5.01 et seq.

TITLE 33—COUNTIES AND COUNTY SEATS

CHAPTER THREE—CORPORATE RIGHTS AND POWERS

Art.
 1581d—1. Airstrips; counties of 17,650 to
 17,700 [New].

Art. 1581d—1. Airstrips; counties of 17,650 to 17,700

Section 1. This Act shall apply in any county having a population of not less than seventeen thousand, six hundred and fifty (17,650) nor more than seventeen thousand, seven hundred (17,700) according to the last preceding Federal Census.

Sec. 2. As used in this Act, the term "airstrip" means any area of land or water used, or intended for use, for the landing and take-off of aircraft, and any appurtenant area used, or intended for use, for airport buildings, or other airport facilities, or rights-of-way.

Sec. 3. The Commissioners Court, in any county to which this Act applies, may authorize the use of equipment, machinery, and employees of the county to construct, establish, and maintain any public airstrip in such county. The cost of the use of equipment, machinery, and employees of the county as herein authorized shall be financed out of appropriate county funds. Acts 1963, 58th Leg., p. 823, ch. 313.

Emergency. Effective May 30, 1963.

Commissioners' courts	Municipal airports act, see art. 46d—1 et
Management of airports, see art. 1269h.	seq.
Power to lease airports and facilities, see art. 2351.	

Art. 1581f. Payment for relocation of water lines owned by water control and improvement districts

The counties of the State of Texas are hereby authorized to pay for the relocation of water lines owned by water control and improvement districts when such relocation is necessary to complete the construction or improvement of Farm-to-Market Roads as defined by Subsection 4-b of Article XX of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended,¹ provided the water control and improvement district which owns the water lines to be relocated agrees to repay the county for the cost of relocating the water lines within twenty (20) years with interest thereon at a rate equal to that paid by the county on their Road and Bridge Fund time warrants. Acts 1962, 57th Leg., 3rd C.S., p. 73, ch. 28, § 1.

¹ Article 7083a.

Acquiring right of way for diversion of streams and drainage channels in locating, relocating or maintaining roads, see art. 6789a.

Commissioners court, power to establish county roads, see art. 6703.

Construction of bridges, culverts or siphons along roads and highways, see art. 7585.

Culverts, see art. 6772.

Designation of county roads as farm-to-market roads, see art. 6673—c.

Road and bridge funds, see art. 6736.

Water companies, power to build lines along county road, see art. 1433.

CHAPTER FIVE—COUNTY SEATS

Art. 1605a. Branch office buildings in counties having city of 20,000 outside county seat

Sec. 2. Said office building and/or jail may be provided for, maintained and repaired by the issuance of bonds as is provided by Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, and all amendments thereto, or to provide, maintain, and repair the same through the issuance of evidences of indebtedness in the same manner as courthouses and jails at the county seats, and the taxes may be levied therefor in the same manner and subject to the same limitations as for courthouses and jails at the county seat; provided, however, that no such office building and/or jail shall cost more than Two Hundred Thousand Dollars (\$200,000). As amended Acts 1963, 58th Leg., p. 12, ch. 10, § 1.

Emergency. Effective March 7, 1963.

TITLE 34—COUNTY FINANCES

Art. 1650. [1464-5-6] Organization

The county auditor of any county of this state may, at any time, with the consent of the district judge or district judges having jurisdiction as hereinafter provided, appoint a first assistant and other assistants who shall be authorized to discharge such duties as may be assigned to them by the county auditor and provided for by law. In counties where only one assistant is appointed, such assistant shall be authorized to act for the county auditor during his absence or unavoidable detention with respect to such duties as are required by law of the county auditor. In counties in which more than one assistant shall be appointed, the county auditor may designate the assistant who shall be authorized to act for him during his absence or unavoidable detention. All of said assistants shall take the usual oath of office for faithful performance of duty and may be required to give such bond as the county auditor may determine, which bond shall be paid for by the county and shall run in favor of the county and of the county auditor as their interest may appear.

The county auditor shall prepare a list of the number of deputies sought to be appointed, their duties, qualifications and experience, and the salaries to be paid each, and shall certify the list to the district judge, or in the event of more than one district judge in the county, to the district judges, and the district judge or the district judges shall then carefully consider the application for the appointment of said assistants and may make all necessary inquiries concerning the qualifications of the persons named, the positions sought to be filled and the reasonableness of the salaries requested, and if, after such consideration, the district judge, or in the event of more than one district judge, a majority of the district judges shall approve the appointments sought to be made or any number thereof, he or they shall prepare a list of the appointees so approved and the salaries to be paid each and certify said list to the Commissioners Court of said county. The Commissioners Court shall thereupon order the amount paid from the general fund of said county upon the performance of the services; and said court shall appropriate adequate funds for the purpose; provided that the total number of assistants allowed to any county under this Article shall not exceed two (2) assistants in counties having less than fifty thousand (50,000) inhabitants, one (1) assistant in counties having not less than fifty-three thousand, nine hundred and thirty-six (53,936), and not more than fifty-four thousand (54,000) inhabitants according to the last preceding Federal Census, four (4) assistants in counties having between fifty thousand (50,000) and one hundred thousand (100,000) inhabitants, six (6) assistants in counties having between one hundred thousand (100,000) and one hundred and forty thousand (140,000) inhabitants, ten (10) assistants in counties having between one hundred and forty thousand (140,000) and two hundred and seventy-five thousand (275,000) inhabitants, and fifteen (15) assistants in counties having more than two hundred and seventy-five thousand (275,000) inhabitants, in each instance according to the last preceding or any future Federal Census, exclusive in each instance of the first assistant, and such temporary assistants as may be needed in cases of bona fide emergencies, the number of such temporary assistants, their salaries and the duration of employment to be recommended by the county auditor but to be determined by the district judge or by a majority of the district judges as the occasion may require, provided in counties having three hundred and thirty

thousand (330,000) inhabitants or more according to the last preceding or any future Federal Census in like manner the judges of the district courts may authorize the appointment of additional regular assistants when in their judgment a necessity exists therefor. The county auditor shall have the right to discontinue the services of any assistant employed in accordance with the provisions of this Article, but no assistant shall be employed except in the manner herein provided. The district judge or district judges giving consent to the auditor to appoint an assistant or assistants shall annually have the right to withdraw such consent, and change the number of assistants permitted.

The county auditor shall be authorized to provide himself with all necessary ledgers, books, records, blanks, stationery, equipment, telephone and postage at the county's expense, but all purchases thereof shall be made in the manner provided for by law. As amended Acts 1963, 58th Leg., p. 1148, ch. 445, § 1.

Emergency. Effective June 10, 1963.

Art. 1652. School ledger

Audit of records of funds handled by departments of education in counties of 1,200,000 or more, see art. 2919g-1.

Art. 1653. [1468] To examine accounts

Audit of records of funds handled by departments of education in counties of 1,200,000, or more, see art. 2919g-1.

Art. 1656a. County auditor in certain counties to prescribe accounting system; deposit of funds in county depository

Audit of records of funds handled by departments of education in counties of 1,200,000 or more, see art. 2919g-1.

Art. 1659. [1480] Bids for material

Supplies of every kind, road and bridge material, or any other material, for the use of said county, or any of its officers, departments, or institutions must be purchased on competitive bids, the contract to be awarded to the party who, in the judgment of the Commissioners Court, has submitted the lowest and best bid. The county auditor shall advertise for a period of two (2) weeks in at least one daily newspaper, published and circulated in the county, for such supplies and material according to specifications, giving in detail what is needed. Such advertisements shall state where the specifications are to be found, and shall give the time and place for receiving such bids. All such competitive bids shall be kept on file by the county auditor as a part of the records of his office, and shall be subject to inspection by any one desiring to see them. Copies of all bids received shall be furnished by the county auditor to the county judge and to the Commissioners Court; and when the bids received are not satisfactory to the said judge or county commissioners, the auditor shall reject said bids and readvertise for new bids. In cases of emergency, purchases not in excess of Three Hundred Dollars (\$300) may be made upon requisition to be approved by the Commissioners Court without advertising for competitive bids. As amended Acts 1963, 58th Leg., p. 115, ch. 66, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 35—COUNTY LIBRARIES

Art. 1689. Funds for library

All funds of the county free library shall be in the custody of the county treasurer, or other county official, who may discharge the duties commonly delegated to the county treasurer. They shall constitute a separate fund to be known as the county free library fund, and shall not be used except for library purposes. The Commissioners Court may contract with privately-owned libraries which serve areas within the county not adequately served by the county free library to provide county free library services in such areas, and may require by such contract that such library submit to such reasonable regulation as is required of governmental libraries. As amended Acts 1963, 58th Leg. p. 750, ch. 284, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 37—COURT—SUPREME

CHAPTER THREE—TERMS AND JURISDICTION

Art. 1738. [1587] Transfer of causes

The Supreme Court may, at any 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 travelling and living expenses of the Justices of said Courts in hearing oral arguments 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 1963, 58th Leg., p. 10, ch. 8, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 39—COURT OF CIVIL APPEALS

CHAPTER ONE—TERMS AND JURISDICTION

Art. 1817, 1586, 993. Location of courts

A Court of Civil Appeals shall be held at the following places, respectively:

1. In the First Supreme Judicial District, in the City of Houston;
2. In the Second Supreme Judicial District, in the City of Fort Worth;
3. In the Third Supreme Judicial District, in the City of Austin;
4. In the Fourth Supreme Judicial District, in the City of San Antonio;
5. In the Fifth Supreme Judicial District, in the City of Dallas;
6. In the Sixth Supreme Judicial District, in the City of Texarkana;
7. In the Seventh Supreme Judicial District, in the City of Amarillo;
8. In the Eighth Supreme Judicial District, in the City of El Paso;
9. In the Ninth Supreme Judicial District, in the City of Beaumont;
10. In the Tenth Supreme Judicial District in the City of Waco;
11. In the Eleventh Supreme Judicial District, in the City of Eastland;
12. In the Twelfth Supreme Judicial District, in the City of Tyler; and
13. In the Thirteenth Supreme Judicial District, in the City of Corpus Christi.

The Cities of Beaumont, Waco and Eastland, respectively, shall furnish and equip suitable rooms for the respective Courts of Civil Appeals therein, and for the justices thereof, and the County of Harris shall furnish and equip suitable rooms in Houston for the Court of Civil Appeals therein, and for the justices thereof, all without cost or expense to the State. The City of Tyler and Smith County and the City of Corpus Christi and Nueces County, respectively, shall furnish and equip suitable rooms and a library for the respective Courts of Civil Appeals located therein, and for the justices thereof, all without cost or expense to the State. As amended Acts 1957, 55th Leg., p. 1263, ch. 421, § 1; Acts 1963, 58th Leg., p. 539, ch. 198, § 2.

Section 2 of the amendatory Act of 1957 is article 1817a. Section 3 repealed all conflicting laws and parts of laws.

Transitional provisions relating to the creation of the Twelfth and Thirteenth

Supreme Judicial Districts and to the location of the Courts of Civil Appeals thereof in the cities of Tyler and Corpus Christi, see note under article 198.

TITLE 40—COURTS—DISTRICT

CHAPTER TWO—DISTRICT CLERK

Art. 1903. 1703, 1096 Joint clerk; separation of county and district clerk offices; election

In counties having a population of less than eight thousand (8,000), according to the last preceding Federal Census, there shall be elected a single clerk who shall perform the duties of the district clerk and the county clerk, unless a majority of the qualified voters of the county who participate in a special election, called by the Commissioners Court for that purpose, vote to keep the offices of county and district clerk separate. The Commissioners Court may submit to the qualified voters of such counties, at an election held at least thirty (30) days before any regular primary election immediately preceding the expiration of the constitutional term of office of said clerk, the question of whether the offices of district and county clerk shall be separate or joint. The same question may again be submitted immediately prior to the expiration of each subsequent constitutional term of office of the separate clerk. Notice of such special election shall be published in a newspaper of general circulation in the county at least twenty (20) days prior to such election. No special election as provided herein shall prevent any county clerk, district clerk or joint clerk from serving the full term of office to which he was elected. As amended Acts 1962, 57th Leg., 3rd C.S., p. 159, ch. 54, § 1.

Emergency. Effective Feb. 16, 1962.

TITLE 41—COURTS—COUNTY

CHAPTER ONE—THE COUNTY JUDGE

<p>Art. 1934a—17. Stenographer or secretary in counties of 41,000 to 43,000; salary [New].</p>	<p>Art. 1934a—18. Stenographer or secretary in Jim Hogg County [New].</p>
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Art. 1934a—17. Stenographer or secretary in counties of 41,000 to 43,000; salary

In any county in the State having a population of not less than forty-one thousand (41,000) inhabitants and not more than forty-three thousand (43,000) 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 appoint a stenographer or secretary at a salary not to exceed Four Thousand, Eight Hundred Dollars (\$4,800) per annum. Acts 1963, 58th Leg., p. 976, ch. 398, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 1934a—18. Stenographer or secretary in Jim Hogg County

The County Judge and the County Attorney of Jim Hogg County are each authorized to employ one person for stenographical and secretarial duties. Each person so employed shall receive a salary of not less than One Thousand, Two Hundred Dollars (\$1,200) nor more than Two Thousand, Four Hundred Dollars (\$2,400) per annum, to be fixed, determined or set by the County Commissioners Court of Jim Hogg County and paid out of the Officer's Salary Fund or General Fund of the County. Acts 1963, 58th Leg., p. 979, ch. 402, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 979, ch. 402, § 2. repealed all conflicting laws and parts of laws to extent of conflict.

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

<p>DALLAS COUNTY AT LAW NOS. 3 AND 4 [NEW] Art. 1970—31.1 County Courts of Dallas County at Law Nos. 3 and 4.</p>	<p>HARRIS COUNTY CRIMINAL COURT AT LAW NO. 4 [NEW] Art. 1970—110c.1 County Criminal Court at Law No. 4.</p>
<p>DALLAS COUNTY PROBATE COURT NO. 2 [NEW] 1970—31b. Probate Court No. 2 of Dallas County.</p>	<p>BEXAR COUNTY CIVIL COURT AT LAW [NEW] 1970—301f. County Civil Court at Law of Bexar County.</p>
<p>TARRANT COUNTY CRIMINAL COURT NO. 3 [NEW] 1970—62c. County Criminal Court No. 3 of Tarrant County.</p>	<p>TRAVIS COUNTY COURT AT LAW NO. 2 [NEW] 1970—324a. County Court at Law No. 2 of Travis County.</p>
	<p>SMITH COUNTY 1970—348. County Court at Law of Smith County [New].</p>

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR
COURTS, AND AFFECTING PARTICULAR COUNTY
COURTS, AND DECISIONS THEREUNDER

DALLAS COUNTY AT LAW NOS. 3 AND 4

Art. 1970—31.1. County Courts of Dallas County at Law Nos. 3 and 4

Section 1. There are hereby created two (2) County Courts to be held in Dallas County, Texas, to be known as and designated as "County Court of Dallas County at Law Number 3" and "County Court of Dallas County at Law Number 4," and the seal of said Courts shall be the same as provided by law for County Courts except the seal shall contain the words "County Court of Dallas County at Law Number 3" and "County Court of Dallas County at Law Number 4."

Sec. 2. The Courts hereby created shall have exclusive, concurrent civil jurisdiction of all cases, original and appellate, over which by the laws of the State of Texas the existing County Court of Dallas County at Law Number 1 and County Court of Dallas County at Law Number 2 have original and appellate jurisdiction; in addition thereto, it is hereby specifically provided that the County Court of Dallas County at Law Number 1, the County Court of Dallas County at Law Number 2, the County Court of Dallas County at Law Number 3, and the County Court of Dallas County at Law Number 4 shall have concurrent and coextensive and equal jurisdiction over all civil, administrative and ministerial acts and over the filing and disposition of all proceedings in eminent domain matters; provided that the Judge of any County Court at Law of Dallas County may sit for the Judge of any other County Court at Law of Dallas County when such Judge is unavailable for the performing of any of the administrative acts in connection with eminent domain proceedings, but the performing of the same shall not transfer the cause or proceedings from the Court for which the act was performed; provided all civil cases appealed from the several Justice Courts of Dallas County shall be by the County Clerk filed in the several County Courts of Dallas County at Law consecutively as said appealed cases are received by said Clerk from the several Justices of the Peace in said County, except in cases wherein the Judge of either of said County Courts at Law has granted a writ of certiorari, in which case the same shall be docketed in the Court so granting said writ and shall not be transferred from said Court.

Sec. 3. The County Court of Dallas County at Law Number 3 shall be known and designated as the "C" Court and the County Court of Dallas County at Law Number 4 shall be known and designated as the "D" Court. The County Clerk shall number consecutively all cases filed in the County Courts of Dallas County at Law affixing immediately following the number of all cases the letter A, B, C or D, according to which County Court at Law of Dallas County said case is assigned, and each case so filed shall be filed in rotation in each of the County Courts of Dallas County at Law with the letter designation being used to denote the Court in which the case is filed. The Judge of either of said County Courts of Dallas County at Law shall have the power to transfer to any of the other of said Courts any case pending upon the docket of said Court except where a writ of certiorari has been granted; provided that such cases so transferred shall be for the purpose of equalizing the dockets of each of said County Courts of Dallas County at Law and each of the Judges

of said Courts shall together at least once a year, transfer cases from one to the other in order to equalize said dockets.

Sec. 4. All of the County Courts of Dallas County at Law and the respective Judges thereof shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas and all other writs and processes necessary to the enforcement of their jurisdiction, and also power to punish for contempt under such provisions as are or may be provided by the General Laws governing county courts throughout the State.

Sec. 5. The terms of the County Court of Dallas County at Law Number 3 shall be held six (6) times each year on the first Monday in January, March, May, July, September and November, and each term shall continue until the business is disposed of. The terms of the County Court of Dallas County at Law Number 4 shall be held six (6) times each year on the first Monday in February, April, June, August, October and December, and each term shall continue until the business is disposed of.

Sec. 6. The Judge of the County Court of Dallas County at Law Number 3 and the Judge of the County Court of Dallas County at Law Number 4, shall be a licensed attorney in this State and informed in the laws of the State, who shall have resided in and actively engaged in the practice of law in Dallas County for a period of not less than four (4) years prior to the general election, and such Judge shall hold his office for four (4) years and until his successor shall be duly qualified. The Judges of said Courts shall receive the same salary now provided by law or hereafter provided by law to be paid to the Judges of other County Courts of Dallas County at Law. As soon as possible after the effective date of this Act, the Commissioners Court of Dallas County shall appoint a Judge to each of said Courts to function on the same date, who shall hold office until January 1st following the next general election or until his successor shall be duly qualified. The successor shall hold office for a period of four (4) years.

Sec. 7. It shall be the duty of the Judges of the County Court of Dallas County at Law Number 1 and the County Court of Dallas County at Law Number 2 to immediately transfer from their dockets one half ($\frac{1}{2}$) of the civil cases pending upon said dockets to the Courts hereby created, which shall be done by beginning with the oldest case pending upon the docket of said Courts and transferring every second case without reference to whether any particular case be pending upon the jury or nonjury docket of said Courts.

Sec. 8. In case of disqualification, an overcrowded docket, sickness or absence from the County of any of the Judges of the County Courts of Dallas County at Law Number 1, Number 2, Number 3 or Number 4, any other Judge of said Courts may exchange benches with said Judge, and when so exchanging benches with any of the other Judges of the County Courts at Law shall have all of the power and jurisdiction of the Court and Judge for whom he is sitting while so exchanging benches, and may sign orders, judgments and decrees or other process of any kind as "Judge Presiding" when acting for such disqualified or absent Judge upon request, or in an emergency without request, or for any other good cause shown. This shall be in addition to the provisions hereinabove made for performing administrative matters for each other.

Sec. 9. Except as herein otherwise provided, all laws applicable to County Court of Dallas County at Law Number 1 and County Court of Dallas County at Law Number 2 shall be applicable to County Court of

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

Dallas County at Law Number 3 and County Court of Dallas County at Law Number 4. Acts 1963, 58th Leg., p. 720, ch. 263.

Effective 90 days after May 24, 1963, date of adjournment.

DALLAS COUNTY PROBATE COURT NO. 2

Art. 1970—31b. Probate Court No. 2 of Dallas County

Section 1. There is hereby created a County Court to be held in and for Dallas County to be called the Probate Court Number 2 of Dallas County.

Sec. 2. Probate Court Number 2 of Dallas County shall have the general jurisdiction of the Probate Court within the limits of Dallas County concurrent with the jurisdiction of the Probate Court of Dallas County and of the County Court of Dallas County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and administrative, settle accounts of executor, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. On the first day of the initial term of said Probate Court Number 2 of Dallas County there shall be transferred to the docket of said Court under the jurisdiction of the County Judge and of the Judge of the Probate Court of Dallas County and by order entered on the minutes of the County Court of Dallas County and of the Probate Court of Dallas County such number of such proceedings and matters then pending in the Probate Court of Dallas County and in the County Court of Dallas County as will equalize the number of such cases pending on the dockets of each of said three (3) Courts, and all writs and processes theretofore issued by or out of said Probate Court of Dallas County and said County Court of Dallas County in such matters or proceedings shall be returnable to the Probate Court Number 2 of Dallas County as though originally issued therefrom. All such new matters and proceedings filed on said day or thereafter filed with the County Clerk of Dallas County irrespective of the Courts or Judge to which the matter or proceeding is addressed, shall be filed by said Clerk in rotation in said respective Courts in the order in which the same are deposited with him for filing.

Sec. 4. The County Court of Dallas County shall retain as heretofore the powers and jurisdiction of said Court existing at the time of the passage of this Act and shall exercise its own powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature other than those provided hereinabove to be transferred to and filed in the Probate Court Number 2 of Dallas County. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County and all ex officio duties of the County Judge of Dallas County as they now exist shall be exercised by the County Judge of Dallas County except insofar as the same shall have been committed heretofore to the Judge of the Probate Court of Dallas County, or as the same shall by this Act expressly be committed to the Judge of the Probate Court Number 2 of Dallas County. Nothing in this Act shall be construed as in anywise impairing or affecting the jurisdiction of the County Court of Dallas County, the Probate Court of Dallas County, the County Court of Dallas County at

Law Number 1 or the County Court of Dallas County at Law Number 2, or any other County Court of Dallas County at Law heretofore or hereafter created.

Sec. 5. There shall be two (2) terms of said Probate Court Number 2 of Dallas County in each year and the first term shall be known as the January-June term, which shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July, and the second of such terms shall be known as the July-December term and shall begin on the first Monday in July and continue until and including Sunday next before the first Monday in the following January. The initial term of said Court shall begin on the first Monday after the effective date of this Act.

Sec. 6. There shall be elected in said County by the qualified voters thereof at the general election for a term of two (2) years and until his successor shall have been duly qualified, a Judge of the Probate Court Number 2 of Dallas County who shall be well-informed on the laws of the State and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years prior to his election. A Judge of said Court shall be appointed by the Commissioners Court of Dallas County as soon as may be possible after the passage of this Act, who shall hold office from the date of his appointment until his successor shall be duly elected and qualified.

Sec. 7. The Judge of the Probate Court Number 2 of Dallas County shall execute a bond and take the oath of office as required by the laws relating to County Judges.

Sec. 8. Any vacancy in the office of the Judge of Probate Court Number 2 of Dallas County may be filled by the Commissioners Court of Dallas County by appointment of a Judge of said Court who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 9. In case of the absence, disqualification or incapacity of the Judge of the Probate Court Number 2 of Dallas County, the County Judge of Dallas County shall sit and act as Judge of said Court and may hear and determine either in his own courtroom or in the courtroom of said Court any matter or proceeding there pending and may enter such orders in such matters or proceedings as the Judge of said Probate Court Number 2 of Dallas County might enter if personally presiding therein.

Sec. 10. The Judge of the Probate Court of Dallas County may sit for the Judge of the Probate Court Number 2 of Dallas County and the Judge of the Probate Court Number 2 of Dallas County may sit for the Judge of the Probate Court of Dallas County on any matters or proceedings pending in either of said Courts. In the case of the absence, disqualification or incapacity of the County Judge of Dallas County, the Judge of the Probate Court of Dallas County and the Judge of Probate Court Number 2 of Dallas County, a special Judge of the Probate Court Number 2 of Dallas County may be appointed or elected as provided by the General Laws relating to County Courts and to the Judges thereof.

Sec. 11. The County Clerk of Dallas County shall be the Clerk of Probate Court Number 2 of Dallas County. The seal of such Court shall be the same as that provided by law for County Courts except that the seal shall contain the words "Probate Court Number 2 of Dallas County." The Sheriff of Dallas County shall in person or by deputy attend the said Court when required by the Judge thereof.

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

Sec. 12. The Judge of the Probate Court Number 2 of Dallas County shall collect the same fees as are now or hereafter established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected and from after the date of his qualification as Judge of said Probate Court Number 2 of Dallas County he shall receive an annual salary to be fixed by order of the Commissioners Court of Dallas County which shall be the same salary as that paid to the Judge of the Probate Court of Dallas County.

Sec. 13. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. All other laws applicable to the Probate Court of Dallas County shall be applicable to Probate Court Number 2 of Dallas County. As to all other laws and parts of laws this Act shall be cumulative.

Sec. 13a. Regardless of any provisions of this Act to the contrary notwithstanding, the provisions of this Act shall not become effective until January 1, 1965. Acts 1963, 58th Leg., p. 723, ch. 265.

Effective Jan. 1, 1965.

TARRANT COUNTY CRIMINAL COURT NO. 1

Art. 1970—62a. County Criminal Court No. 1 of Tarrant County

Acts 1963, 58th Leg., p. 682, ch. 251, § 16, incorporated in the Civil Statutes as article 1970—62c, § 16, changed the designation of the County Criminal Court of Tarrant County to the County Criminal Court No. 1 of Tarrant County.

Criminal district attorney of Tarrant County, powers and duties, see Vernon's Ann.C.C.P. art. 52—82.

TARRANT COUNTY CRIMINAL COURT NO. 2

Art. 1970—62b. County Criminal Court No. 2 of Tarrant County

Acts 1963, 58th Leg., p. 682, ch. 251, § 16, incorporated in the Civil Statutes as article 1970—62c, § 16, changed the designation of the County Criminal Court No. 1 of Tarrant County to the County Criminal Court No. 2 of Tarrant County.

Criminal district attorney of Tarrant County, powers and duties, see Vernon's Ann.C.C.P. art. 52—82.

TARRANT COUNTY CRIMINAL COURT NO. 3

Art. 1970—62c. County Criminal Court No. 3 of Tarrant County

Section 1. There is hereby created a county court to be held in and for Tarrant County, Texas, to be called the County Criminal Court No. 3 of Tarrant County, Texas.

Sec. 2. The County Criminal Court No. 3 of Tarrant County, Texas, shall have, and same is hereby vested with, the sole jurisdiction within said County of all appeals from criminal convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Tarrant County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, and the said County Criminal

Court No. 3 of Tarrant County, Texas, shall have, and same is hereby vested with, concurrent jurisdiction within said County of all criminal matters and causes, original and appellate, that are now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and laws of Texas, except as provided in Section 4 of this Act.

Sec. 3. On the first day of the initial term of the County Criminal Court No. 3 of Tarrant County, Texas, there shall be transferred to the docket of said Court, under the direction of the judge of the County Criminal Court of Tarrant County, Texas, and the Judge of the County Criminal Court No. 1 of Tarrant County, Texas, and by order entered on the minutes of the County Criminal Court of Tarrant County, Texas, and the County Criminal Court No. 1 of Tarrant County, Texas, all of such appeals from convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Tarrant County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, now pending in the County Criminal Court of Tarrant County, Texas, and the County Criminal Court No. 1 of Tarrant County, Texas; and all writs and processes theretofore issued by or out of the said Courts in such matters or proceedings shall be returnable to the County Criminal Court No. 3 of Tarrant County, Texas, as though originally issued therefrom. All such new appeals from convictions had under the laws of the State of Texas and ordinances of the municipalities located in Tarrant County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, filed on said day or thereafter filed with the County Clerk of Tarrant County, irrespective of the Court or judge to which said appeal is addressed, shall be filed by said Clerk in the County Criminal Court No. 3 of Tarrant County, Texas.

Sec. 4. The County Court of Tarrant County, Texas, shall retain, as heretofore, its jurisdiction as a juvenile court and its general jurisdiction as a probate court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and habitual drunkards, grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, and transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of the estates of deceased persons and the apprenticing of minors as provided by law. The county judge of Tarrant County, Texas, shall be judge of the County Court of Tarrant County, Texas, and all ex officio duties of the county judge shall be exercised by the said judge of said County Court except insofar as the same shall, by this Act, be committed to the judge of the County Criminal Court No. 3 of Tarrant County, Texas, and except such as have heretofore been conferred upon the judge of the County Court at Law of Tarrant County, Texas.

Sec. 5. The County Criminal Court No. 3 of Tarrant County, Texas, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of said Court or any court or tribunal inferior to said Court, and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the State.

Sec. 6. The terms of the County Criminal Court No. 3 of Tarrant County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the County Courts. The terms of said County Criminal Court No. 3 shall be held not less than four (4) times each year, and the Commissioners Court of Tarrant County, Texas, shall

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

fix the time at which said Court shall hold its terms until the same may be changed according to law.

Sec. 7. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Tarrant County, in accordance with the law, a judge of the County Criminal Court No. 3 hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. At the next General Election there shall be elected a judge of the County Criminal Court No. 3 who shall hold office for the unexpired term. The judges of said Court elected at the General Election in 1966 and thereafter shall hold office for four (4) years and until their successors shall have duly qualified; provided that no person shall be eligible for judge of said Court unless he shall be a citizen of the United States and of this State who shall have been a practicing lawyer of this State or a judge of a Court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Tarrant for two (2) years next preceding his appointment or election.

Sec. 8. The judge of the County Criminal Court No. 3 of Tarrant County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 9. A special judge of the County Criminal Court No. 3 of Tarrant County, Texas, may be appointed or elected as provided by the laws relating to County Courts and the judges thereof.

Sec. 10. The County Clerk of Tarrant County, Texas, shall be the clerk of the County Criminal Court No. 3 of Tarrant County, Texas. The seal of said Court shall be the same as provided for County Courts except that the seal shall contain the words "The County Criminal Court No. 3, Tarrant County, Texas." The sheriff of Tarrant County, Texas, shall in person or by deputy, attend said Court when required by the judge thereof.

Sec. 11. The judge of the County Criminal Court No. 3 of Tarrant County, Texas, shall collect the same fee provided by law for county judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the judge of said Court shall receive a salary of Twelve Thousand Dollars (\$12,000) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such judge shall not engage in the practice of law while in office.

Sec. 12. The judge of the County Criminal Court No. 3 of Tarrant County, Texas, may be removed from office in the same manner, and for the same causes as any other county judge may be removed under the laws of this State.

Sec. 13. For the purpose of preserving a record in all cases for the information of the Court, jury and parties, the judge of the County Criminal Court No. 3 of Tarrant County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the Court and who shall hold his office at the pleasure of the Court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to, apply in all its provisions insofar as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and take the same oath as are in said laws provided for the stenographers of District Courts of this State, and he shall also be governed by any other laws covering the stenographers of the District Courts of this State; provided that the official shorthand reporter of said

Court shall not be required to take testimony in cases where neither party litigant nor the judge demands it, but where the testimony is taken by said reporter, a fee of Three Dollars (\$3) shall be taken by the clerk as costs in the case, the said Three Dollars (\$3), when collected, shall be paid into the County Treasury of Tarrant County, Texas.

Sec. 14. As soon as may be after this Act takes effect, the clerk of the County Criminal Court of Tarrant County, Texas, and the clerk of the County Criminal Court No. 1 of Tarrant County, Texas, may transfer to the docket of the County Criminal Court No. 3 of Tarrant County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Tarrant County, Texas, and the County Criminal Court No. 1 of Tarrant County, Texas, and thereafter the judge of either of said Courts may, in his discretion, transfer any cause or causes that may at any time be pending in his Court to the other Courts by an order or orders entered in the minutes of his Court, and the judge of the Court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

Sec. 15. The judge of the County Criminal Court of Tarrant County, Texas, and the judge of the County Criminal Court No. 1 of Tarrant County, Texas, and the judge of the County Criminal Court No. 3 of Tarrant County, Texas, may, in their discretion, exchange benches and sit and hear cases in the Court in which the case or proceeding is then pending, and try or otherwise dispose of same.

Sec. 16. The County Criminal Court of Tarrant County, Texas, and the County Criminal Court No. 1 of Tarrant County, Texas, shall hereafter be referred to and known as the County Criminal Court No. 1 of Tarrant County, and the County Criminal Court No. 2 of Tarrant County, respectively and all references in this Act or existing laws to the County Criminal Court of Tarrant County or the County Criminal Court No. 1 of Tarrant County shall, hereafter, refer to the County Criminal Court No. 1 of Tarrant County and County Criminal Court No. 2 of Tarrant County respectively.

Sec. 17. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative.

Sec. 18. If any Section, paragraph, sentence, clause, phrase or word contained in this Act shall be held unconstitutional by the Courts of this State, the invalidity of such portion of the Act shall not be construed to affect any other part of the Act. Acts 1963, 58th Leg., p. 682, ch. 251.

Effective 90 days after May 24, 1963, date of adjournment.

Criminal district attorney of Tarrant County, powers and duties, see Vernon's Ann.C.C.P. art. 52—82.

HARRIS COUNTY PROBATE COURT

Art. 1970—110a. Probate Court of Harris County

Sec. 9. The Judge of the Probate Court of Harris County shall execute a bond in the sum of One Hundred Thousand Dollars (\$100,000), payable as required by law, and take the oath relating to county judges as provided by law. As amended Acts 1963, 58th Leg., p. 769, ch. 296, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 11. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Harris County, the County Judge of Harris

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

County shall sit and act as Judge of said Court, and may hear and determine, either in his own courtroom or in the courtroom of said Court, any matter or proceeding there pending, and enter any orders in such matters or proceedings as the Judge of said Court may enter if personally presiding therein, and in a like manner, in the case of the absence, disqualification or incapacity of the County Judge, the Probate Judge of Harris County shall sit and act, in probate matters only, as Judge of said County Court, and may hear and determine, either in his own courtroom or in the courtroom of said County Court, any probate matter or probate proceeding there pending, and enter any orders in such matters or proceedings as the Judge of said County Court may enter if personally presiding therein. As amended Acts 1963, 58th Leg., p. 770, ch. 297, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

HARRIS COUNTY CRIMINAL COURT AT LAW NO. 4

Art. 1970—110c.1. County Criminal Court at Law No. 4

Section 1. There is hereby created a court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 4 of Harris County, Texas."

Sec. 2. The County Criminal Court at Law No. 4 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, and the Judges of said Court shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said Court shall have no jurisdiction over any of those matters which are now vested exclusively in the County Court of Harris County, or in the Judge thereof.

Sec. 3. The Judge of the said County Criminal Court at Law No. 4 shall be elected at the General Election by the qualified voters of Harris County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; but such Judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the Judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a Judge of the County Criminal Court at Law No. 4 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next General Election and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said County Criminal Court at Law No. 4 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 4. The Judge of the County Criminal Court at Law No. 4 of Harris County, Texas, shall appoint an official shorthand reporter for

such Court, who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the Law relating to "Official Court Reporters" shall and is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the District Courts of Harris County is paid.

Sec. 5. The District Clerk of Harris County, Texas, shall act as and be the clerk of said County Criminal Court at Law No. 4 of Harris County, Texas. The District Clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas.

Sec. 6. The sheriff of Harris County, either in person or by deputy, shall attend said Court when required by the Judge thereof; and the various sheriffs and constables of this State executing process issued out of said Court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 7. The seal of the County Criminal Court at Law No. 4 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Criminal Court at Law No. 4 of Harris County, Texas," and said seal shall be judicially noticed.

Sec. 8. A special Judge of said Court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 9. The terms of the Court hereby created shall begin on the first Monday of the months of June, August, October, December, February, and April of each year. The sessions of said Court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

Sec. 10. When this Act becomes effective, the District Clerk of Harris County, Texas, in order to provide a docket for this Court, shall file the first one hundred (100) cases to be filed, in the said County Criminal Court at Law No. 4, and beginning with the 101st case to be filed, such case shall be filed in County Criminal Court at Law No. 1, and the 102nd case to be filed shall be filed in County Criminal Court at Law No. 2, and the 103rd case to be filed shall be filed in County Criminal Court at Law No. 3 and the 104th case to be filed shall be filed in County Criminal Court at Law No. 4, and so on in rotation so thereafter of every four (4) cases filed, each of the Courts, County Criminal Court at Law No. 1, County Criminal Court at Law No. 2, County Criminal Court at Law No. 3, and County Criminal Court at Law No. 4 shall each receive one (1) case: further, immediately on the effective date of this Act every case having numbers ending with 0 and every case having numbers ending with 5 pending on the dockets of the County Criminal Court at Law No. 1 of Harris County and the County Criminal Court at Law No. 2 of Harris County and the County Criminal Court at Law No. 3 of Harris County shall be at once transferred

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

to and docketed in the County Criminal Court at Law No. 4 of Harris County, by the District Clerk and jurisdiction of such cases so transferred is hereby conferred upon the County Criminal Court at Law No. 4 of Harris County, Texas.

Sec. 11. The Judge of the County Criminal Court at Law No. 4 of Harris County, Texas, may exchange benches with the Judges of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas, in the same manner that the Judges of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas, are authorized to exchange benches under the provisions of Section 5 of Senate Bill No. 144, Chapter 16¹ and Section 5 of Senate Bill No. 143, Chapter 24,² Acts of the Forty-first Legislature, Regular Session, 1929. The Judges of the County Criminal Court at Law No. 1 of Harris County, Texas, the County Criminal Court at Law No. 2 of Harris County, Texas, the County Criminal Court at Law No. 3 of Harris County, Texas, and the County Criminal Court at Law No. 4 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the Court from which the cause is transferred, provided that no cause shall be transferred without the consent of the Judge of the Court to which transferred.

¹ Article 1970—94a.

² Article 1970—106a.

Sec. 12. The practice in said County Criminal Court at Law No. 4, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now or may hereafter be prescribed for county courts.

Sec. 13. All process issued out of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas, prior to the time when the clerks thereof shall transfer cases from the dockets of said Courts, as provided in Section 10 of this Act, in cases transferred as therein provided, shall be returned to and filed in the Court hereby created, and shall be equally as valid and binding upon the parties to such transferred cases as though such process had been issued out of the County Criminal Court at Law No. 4 of Harris County, Texas. Likewise, in cases transferred to any one of the County Criminal Courts at Law by order of the Judge of one of said Courts as provided in Section 11 of this Act, all process extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made, and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made. Acts 1963, 58th Leg., p. 155, ch. 95.

Effective 90 days after May 24, 1963, date of adjournment.

JEFFERSON COUNTY AT LAW

Art. 1970—113. Jurisdiction of other courts

The County Court of Jefferson County shall retain, as heretofore, general jurisdiction of the probate court, and all jurisdiction conferred by law now over probate matters, and the judge of the County Court of Jefferson County at Law may act for the judge of the county court in any juvenile, lunacy or probate matter, and also may perform for the

county judge any and all ministerial acts required by the laws of this state of the county judge, and any and all acts thus performed by the judge of the County Court at Law while acting for the county court shall be valid and binding upon all parties to such proceedings or matters, the same as if performed by the county judge, provided that the powers thus given the judge of the County Court of Jefferson County at Law shall extend to and include all powers of the county judge except his powers and duties in connection with the transaction of the business of the county as presiding officer of the Commissioners Court, and the County Court of Jefferson County as now and heretofore existing shall have all the jurisdiction which it now has, save and except that which is given to the County Court of Jefferson County at Law by this Act, but the county court as now existing shall have no other jurisdiction, civil or criminal. The county judge of Jefferson County shall be judge of the county court for the county, and all ex officio duties of the county judge shall be exercised by said judge of the County Court of Jefferson County, except insofar as the same shall by this Act be committed to the County Court of Jefferson County at Law. Nothing in this Act shall be so construed as to require that the County Judge of Jefferson County shall be an attorney. As amended Acts 1963, 58th Leg., p. 472, ch. 169, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 1970—122. Salary of judge; assessment and collection of fees

The judge of the County Court of Jefferson County at Law shall receive a salary of not more than Sixteen Thousand Five Hundred Dollars (\$16,500) per annum, which shall be paid in twelve (12) equal monthly installments out of the County Treasury of Jefferson County as fixed and ordered by the Commissioners Court of said county. The judge of the County Court of Jefferson County at Law shall assess the same fees as are now prescribed by law relating to county judges fees, all of which shall be collected by the clerk of the court and paid into the county treasury on collection and no part of which shall be paid to said judge, who shall instead draw a salary as herein provided. As amended Acts 1951, 52nd Leg., p. 4, ch. 4, § 1; Acts 1955, 54th Leg., p. 1176, ch. 455, § 1; Acts 1963, 58th Leg., p. 472, ch. 169, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

BEXAR COUNTY CIVIL COURT AT LAW**Art. 1970—301f. County Civil Court at Law of Bexar County**

Section 1. There is hereby created a court to be held in and for Bexar County, Texas, which shall be known as the "County Civil Court at Law of Bexar County, Texas," and it shall be a Court of record.

Sec. 2. The County Civil Court at Law of Bexar County, Texas, shall have and exercise concurrent jurisdiction, powers and duties in all civil actions, proceedings and matters, original and appellate, over which by the Constitution and General Laws of this State, the County Court of Bexar County, Texas, and the County Courts at Law Nos. 1, 2, and 3, of Bexar County, would have jurisdiction except as provided in Section 3 of this Act.

Sec. 3. The County Court of Bexar County, Texas, shall retain as heretofore, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos

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mentis, and common drunkards; grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to deceased persons, and to hear and determine all matters affecting juvenile offenders as now provided by law and to hear and determine all matters affecting minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and shall have jurisdiction to hear and determine all matters relating to or arising out of the granting or revoking of liquor licenses, and all matters appertaining thereto, and to apprentice minors. The County Judge of Bexar County shall be the Judge of the County Court of Bexar County, and shall be the presiding officer of the Commissioners Court; all ex officio duties of the County Judge shall be exercised by the said Judge of the County Court of Bexar County, except insofar as the same shall, by this Act, or otherwise by law, have been committed to the Judge of the County Civil Court at Law of Bexar County, Texas. The County Court of Bexar County, Texas, and the Judge thereof shall have and retain the same jurisdiction, powers, duties, fees and perquisites of office as are conferred on said County Court of Bexar County, Texas, or the Judge thereof, at and before the passage and taking effect of this Act, and this Act shall in no wise affect the said County Court or the Judge thereof except as provided herein.

Sec. 4. From and after the passage and taking effect of this Act, all actions, cases, matters or proceedings of eminent domain arising under Title 52, Articles 3264 to 3271, inclusive, of the Revised Civil Statutes of Texas, as amended, or under the provisions of House Bill No. 77, Chapter 423, pages 1128 to 1130, inclusive, Acts, 1955, Regular Session, now codified as Article 6674-n of Vernon's Annotated Civil Statutes of Texas or otherwise, as well as all proceedings instituted under the provisions of the Acts, 1957, Fifty-fifth Legislature, Regular Session, Chapter 243, pages 505, et seq., now codified as Article 5547-1, et seq., Title 92, of the Revised Civil Statutes of Texas, as amended, and known and cited as the Texas Mental Health Code, and all amendments thereto, shall be filed and docketed in the County Civil Court at Law of Bexar County, Texas, in the same manner and under the same circumstances and conditions as now obtain for the filing of such actions, proceedings and matters of a civil nature or character in the County Court of Bexar County, Texas, or with the County Judge, and all such actions, cases, matters or proceedings shall be docketed in the order in which filed in said Court, or in such other manner as may be determined by the Judge of the County Civil Court at Law of Bexar County, Texas, and the County Judge of Bexar County, Texas. From and after the passage and taking effect of this Act all other civil actions, matters and proceedings over which the County Civil Court at Law of Bexar County, Texas, is granted jurisdiction by this Act may be filed in said County Civil Court at Law of Bexar County, Texas, in the same manner and under the same conditions, circumstances and instances as now obtain for the filing of civil actions, matters and proceedings in the County Court at Law No. 1, the County Court at Law No. 2, and the County Court at Law No. 3, all of Bexar County, Texas, and all such actions, matters and proceedings shall be docketed in the order in the Court in which filed, or in such manner as may be determined by a majority of the Judges of the said County Courts at Law, the Judge of the said County Civil Court of Bexar County, Texas, and the County Judge of Bexar County, Texas. It is the intention of this Act that the said County Civil Court at Law of Bexar County, Texas, shall give preference and priority to the trial of all eminent domain or condemnation actions, cases, matters and proceedings and to

proceedings instituted under the provisions of the Texas Mental Health Code, and the Judge of said Court is hereby so enjoined.

Sec. 5. The County Civil Court at Law of Bexar County, Texas, shall not have, nor exercise, jurisdiction over any criminal action, proceeding or matter as the same is now, or may hereafter be, vested in the County Courts and/or County Courts at Law of this State having jurisdiction in criminal actions, proceedings and matters under the Constitution and Laws of Texas, and said County Civil Court at Law of Bexar County, Texas, shall have no appellate jurisdiction of appeals in criminal cases or matters from the Justice Courts of Bexar County, Texas, nor from the Corporation Courts of the several incorporated cities and/or towns within said County, and the Judge of said County Civil Court at Law of Bexar County, Texas, shall have no powers, duties or responsibilities as to criminal proceedings or matters such as are now, or may hereafter be, vested in the Judges of the County Courts and/or County Courts at Law of this State, having criminal jurisdiction.

Sec. 6. The County Civil Court at Law of Bexar County, Texas, shall hold six (6) terms of Court each year, commencing on the first Monday in January, March, May, July, September and November of each year, and each term shall continue until the business of said Court shall have been disposed of; provided, however, that no term of Court shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its minutes during the term extending the term for any particular causes therein specified.

Sec. 7. The Judge of said County Civil Court at Law of Bexar County, Texas, shall be elected at the general election by the qualified voters of Bexar County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He shall be a duly licensed and practicing member of the Bar of this State; he shall take the oath of office prescribed by the Constitution of Texas, but no bond shall be required of such Judge. The Judge of the County Civil Court at Law of Bexar County, Texas, shall receive and shall be paid the same salary as is now, or as may hereafter be, prescribed by law for the Judges of the several County Courts at Law of Bexar County, Texas, in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn on the County Treasurer of said County upon orders of the Commissioners Court of Bexar County.

Sec. 8. Upon the effective date of this Act, the Commissioners Court of Bexar County, Texas, shall appoint a Judge of the said County Civil Court at Law of Bexar County, Texas, who shall have the qualifications herein prescribed and who shall serve until January 1st following the next general election and until his successor shall be duly elected and qualified. Any vacancy in the office of the Judge of the County Civil Court at Law of Bexar County, Texas, shall be filled by appointment made by the Commissioners Court of Bexar County, and the Judge so appointed shall serve until January 1st following the next general election and until his successor shall be duly elected and qualified.

Sec. 9. The Clerk of the said County Civil Court at Law of Bexar County, Texas, shall keep a separate docket for said County Civil Court at Law of Bexar County, Texas, the same as is now or may be provided by law for keeping of dockets for the County Courts at Law of Bexar County, Texas; he shall tax the Official Court Reporter's fee as costs in civil actions in said County Civil Court at Law of Bexar County, Texas, in like manner as said fee is taxed in civil cases in the district courts of this

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State. The Judges of the County Courts at Law, the County Judge, the Judge of the County Civil Court at Law of Bexar County, Texas, and each of them may with the consent of the Judge of the court to which transfer is made, transfer civil actions, matters and proceedings from his respective court to any one of the other courts by the entry of an order to the effect upon docket of such court, provided both courts have concurrent civil jurisdiction of any such civil actions, matters and proceedings; and the Judge of the court to which any such civil action, matter or proceeding shall have been transferred shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees and judgments therein in the same manner and with the same force and effect as if such case, action, matter or proceeding had been originally filed in said court to which transferred. Provided, however, that no cause, action, matter, case or proceeding shall be transferred without the consent of the judge of the court to which transferred.

Sec. 10. The Judge of the County Civil Court at Law of Bexar County, Texas, and the County Judge of the County Court of Bexar County, Texas, and the Judges of the County Courts at Law of Bexar County, may, at any time, exchange benches with each other, and may at any time, sit and act for each other in any civil case, proceeding or matter now, or hereafter, pending in any of said County Courts of Bexar County, Texas; and any and all such acts thus performed by the Judge of the County Civil Court at Law of Bexar County, Texas, and/or by the County Judge of Bexar County Court, and/or by either of the Judges of County Courts at Law of Bexar County, Texas, shall be valid and binding upon all parties to such cases, proceedings and matters.

Sec. 11. In case of the absence, disqualification or incapacity of the Judge of the County Civil Court at Law of Bexar County, Texas, the County Judge of Bexar County, or any of the Judges of the County Courts at Law of Bexar County, may sit and act as Judge of said Court and may determine, either in his own courtroom or in the courtroom of said County Civil Court at Law of Bexar County, Texas, any matters or proceedings there pending, and may enter any orders in such matters and proceedings as the Judge of said County Civil Court at Law of Bexar County, Texas, might enter if personally presiding therein.

Sec. 12. A Special Judge may be appointed or elected for the County Civil Court at Law of Bexar County, Texas, in the same manner as may now or hereafter be provided by the General Laws of this State relating to the appointment and election of a Special Judge, or Judges, of the several District and County Courts and County Courts at Law of this State; and every such Special Judge thus appointed or elected for said Court shall receive for the services he may actually perform as such Special Judge the same amount of pay which the regular Judge of said Court would be entitled to receive for such services; and said amount to be paid to such Special Judge shall be paid out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said County upon orders of the Commissioners Court of Bexar County, Texas; but no part of the amount paid to any Special Judge shall be deducted from or paid out of the salary of the regular Judge of said County Civil Court at Law.

Sec. 13. The practice in said County Civil Court at Law of Bexar County, Texas, shall be the same as prescribed by law relating to County Courts and County Courts at Law. Appeals and writs of error may be taken from judgments and orders of said County Civil Court at Law of Bexar County, Texas, and from judgments and orders of the Judge thereof in civil cases, and in the same manner as now is, or may hereafter be,

prescribed by law relating to appeals and writs of error from judgments and orders of the County Courts and County Courts at Law throughout this State, and the respective judges thereof, in similar cases, and appeals may also be taken from interlocutory orders of said County Civil Court at Law of Bexar County, Texas, appointing a receiver, and also from orders of said County Civil Court at Law of Bexar County, Texas, overruling a motion to vacate an order appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the District Courts throughout this State.

Sec. 14. The Judge of the County Civil Court at Law of Bexar County, Texas, may appoint an official shorthand reporter, who shall be well-skilled in his profession and shall be a sworn officer of the Court, and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, of the Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the law relating to "official court reporters" shall, and the same are hereby made to apply in all its provisions, insofar as they are applicable, to the official shorthand reporter herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation paid to official shorthand reporters in the District Courts of Bexar County, Texas, and paid in the same manner that compensation of official shorthand reporters of said District Courts of Bexar County is paid.

Sec. 15. The Judge of the County Civil Court at Law of Bexar County, Texas, upon proper certification of the County Judge of Bexar County, Texas, because of conflicting duties, or absence or inability to act, or upon the failure or refusal of such County Judge to act for any reason or cause, shall also be authorized and empowered to act for and in the place and stead of said County Judge in any probate proceeding or matter, and may also perform for the County Judge of Bexar County, Texas, any and all other ministerial acts required by the laws of this State of said County Judge of Bexar County, Texas, and upon any such certification, the Judge of said County Civil Court at Law of Bexar County, Texas, shall give preference and priority to all such actions, matters and proceedings so certified, and any and all such acts thus performed by the Judge of said County Civil Court at Law of Bexar County, Texas, shall be valid and binding upon all parties to such actions, matters and proceedings the same as if performed by the County Judge of Bexar County, Texas. Notwithstanding the additional powers and duties thus conferred upon the Judge of the County Civil Court at Law of Bexar County, Texas, by the provisions of this paragraph, no additional compensation or salary shall be paid to such Judge, but the compensation or salary of such Judge shall be and remain the same as now, or as may be hereafter, fixed by law.

Sec. 16. The County Clerk of Bexar County, Texas, shall be the Clerk of the County Civil Court at Law of Bexar County, Texas, in addition to his duties as they are now, or may hereafter be, prescribed by law. The County Clerk of Bexar County, Texas, shall, upon the taking effect of this Act, or as soon thereafter as may be convenient and necessary, appoint a deputy for said County Civil Court at Law of Bexar County, Texas, provided, however, that the person so appointed must be acceptable to the Judge of said Court, and such appointment must be confirmed in writing by the Judge of said Court before the same becomes effective. Said deputy so appointed shall take the oath of office prescribed by the

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Constitution of Texas, and the County Clerk of Bexar County, Texas, shall have the power and authority to require said deputy to furnish bond in such amount as he may prescribe and such bond shall be conditioned as prescribed by law. Said deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by said County Clerk of Bexar County in person; and it shall be the duty of said deputy to attend all sessions of the County Civil Court at Law of Bexar County, Texas, and to perform such services in and for said Court as are usually performed by the County Clerk and his deputies in and for the several County Courts of this State, and said deputy shall also perform any and all other services that may, from time to time, be assigned him by the Judge of said Court. Said deputy shall, in all cases, that may be filed in said County Civil Court at Law of Bexar County, Texas, or that may be transferred to said Court from the County Court of Bexar County, Texas, tax and assess and collect the same fees and costs, and in the same manner as now provided by law for the County Courts of this State, and all such fees and costs, when collected by said County Clerk and his deputies, as well as any and all other sums of money received by them in their official capacity, shall be deposited in such fund, or paid to the proper person or persons entitled to the same and in the manner as may be prescribed by law. Said deputy so appointed shall, from and after his appointment, confirmation and qualification, as herein provided, continue as such deputy at the pleasure of the Judge of said County Civil Court at Law of Bexar County, Texas, and should said Judge, for any reason whatsoever, not further desire the services of such deputy, the County Clerk of Bexar County shall, upon request of such Judge, appoint another deputy for such Court, such appointment, however, to be made in the manner as hereinbefore provided, and all vacancies, however created, shall be filled by appointment made in like manner. The salary of the deputy appointed for said Court shall be fixed and determined by the Judge of said Court, but shall not exceed the salary now being paid to, or that may in the future be paid to, the deputies for the County Courts at Law of Bexar County, Texas, said annual salary to be paid to such deputy in equal monthly installments in the manner provided by law out of such fund of Bexar County, Texas, as may be provided for the payment of the salaries of the several deputies of the County Clerk. Provided, however, that before such monthly salary is paid to said deputy the Judge of the County Civil Court at Law of Bexar County, Texas, shall cause to be filed with the County Clerk of Bexar County, or with the proper officer of said County, a written statement, signed by said Judge, certifying that said deputy has performed the services required of him and that he is entitled to receive said salary and such salary of said deputy shall be paid to him only upon certification so filed by said Judge. Provided, however, that nothing contained in this Section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being exercised by the County Clerk of Bexar County, Texas, except as herein specifically and expressly set out.

Sec. 17. The Sheriff of Bexar County, Texas, shall, by and through a deputy to be appointed as hereinafter provided, attend all sessions of said County Civil Court at Law of Bexar County, Texas, and said Sheriff shall, upon the taking effect of this Act, or as soon thereafter as may be necessary and convenient, appoint one deputy for said Court, provided, however, that the person so appointed must be acceptable to the Judge of said Court and said appointment of said deputy must be approved and confirmed in writing by said Judge before the same becomes effective.

The deputy so appointed shall, before assuming his duties, take the oath of office prescribed by law and the Sheriff of Bexar County, Texas, shall be authorized and empowered to require said deputy to furnish bond in such amount as he may determine, the same to be conditioned and payable as may be prescribed by law. Said deputy shall do and perform all such official acts as may be lawfully done and performed by the Sheriff of Bexar County, Texas, in person, and such deputy shall, from and after his appointment, confirmation and qualification as hereinabove provided, continue as such at the pleasure of the Judge of the County Civil Court at Law of Bexar County, Texas, and should said Judge, for any reason whatsoever, no longer desire the services of said deputy, the Sheriff of Bexar County shall, upon request of such Judge, appoint another deputy for said Court, such appointment, however, to be made in the same manner as hereinabove prescribed. It shall be the duty of such deputy to attend all sessions of said Court and also to perform and render such services in and for said Court, and for the Judge thereof, as are usually and generally performed and rendered by Sheriffs and their deputies in and about the several District and County Courts of this State, including the serving of any and all process, subpoenas, warrants and writs of any and all kinds, nature or character, in civil matters and proceedings, and it shall be the duty of said deputy to also perform and render any and all other services that may, from time to time, be assigned to him by the Judge of said Court. Said deputy shall have, possess and enjoy the same rights, powers, authority and privileges that the Sheriffs and their deputies throughout this State now, or may hereafter, have, possess and enjoy; and said deputy is authorized to act for the deputy Sheriff of the County Court of Bexar County, Texas, and each such deputy shall be authorized and empowered to act for each other, and it shall be the duty of such deputies to act for one another when required to do so by either of the Judges of said Courts, or by the Sheriff, but the deputy thus acting for the other shall not be entitled to receive, nor shall he be paid, any additional compensation. The Sheriff of Bexar County shall, in the event of a vacancy, caused for any reason whatsoever, immediately appoint another deputy for such Court, such appointment, however, to be subject to the written approval and confirmation of the Judge of said Court. The salary of the deputy Sheriff appointed for said Court shall be determined and fixed by the Judge of said Court but shall not exceed the salary now being paid to the deputy Sheriffs for the County Courts at Law of Bexar County, Texas; said annual salary shall be paid to such deputy in equal monthly installments out of such funds of Bexar County as is provided by law for the payment of the salaries of the several deputies of the Sheriff of Bexar County, and payment to be made in the manner prescribed by law. Provided, however, that before such monthly salary is paid to said deputy, the Judge of the County Civil Court at Law of Bexar County, Texas, shall cause to be filed with the Sheriff of Bexar County, Texas, or with the proper officer of said County, a written statement, signed by said Judge, certifying that said deputy has performed and rendered the services required of him and that he is entitled to receive his salary. And provided, further, that nothing contained in this Section of this Act is intended to change or alter the duties and powers of the Sheriff of Bexar County, Texas, except as herein specifically and expressly provided.

Sec. 18. The County Civil Court at Law of Bexar County, Texas, or the Judge thereof, shall have power to issue writs of injunction, of mandamus and all other writs necessary to the enforcement of the jurisdiction of said Court.

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

Sec. 19. The seal of the County Civil Court at Law of Bexar County, Texas, shall be the same as that prescribed by law for County Courts except that such seal shall contain the words "County Civil Court at Law of Bexar County, Texas," and said seal shall be judicially noticed.

Sec. 20. For the purpose of disposing of the business of said County Civil Court at Law of Bexar County, Texas, there shall be appointed by the Criminal District Attorney of Bexar County, Texas, in addition to the assistants now provided by law, one assistant for the purpose of conducting the duties of his office in said Court. Said assistant shall be paid a salary to be set by the said Criminal District Attorney and approved by the Commissioners Court of Bexar County, Texas, the same to be paid in equal monthly installments by said County upon warrants drawn against the General Fund of Bexar County by orders of the Commissioners Court. Acts 1963, 58th Leg., p. 302, ch. 114.

Effective 90 days after May 24, 1963, date of adjournment. Bexar County Court for criminal cases, see Vernon's Ann.C.C.P. art. 52—105.

TRAVIS COUNTY COURT AT LAW NO. 1

Art. 1970—324. County Court at Law No. 1 of Travis County

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 No. 1 of Travis County, Texas, in lieu of the present County Court at Law of Travis County, Texas.

Sec. 2. The County Court at Law No. 1 of Travis County, Texas, shall have and exercise 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 at Law of Travis County, Texas, shall be and the same are hereby transferred to the County Court at Law No. 1 of Travis County, Texas, and all writs and process, civil and criminal, heretofore issued by or out of the County Court at Law of Travis County, Texas, shall be and the same are hereby made returnable to the County Court at Law No. 1 of Travis County, Texas. The jurisdiction of the County Court at Law No. 1 of Travis County, Texas, 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 or in the County Court at Law of Travis County, Texas; and such County Court at Law No. 1 of Travis County, Texas, shall exercise and have concurrent jurisdiction with the County Court or County Judge or any other numbered County Court at Law of Travis County, now or hereafter created, as to all matters of eminent domain and as to all such probate matters as may be assigned to it by the County Judge of Travis County as hereinafter provided; 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 such jurisdiction now conferred by law over probate and eminent domain matters; but such jurisdiction shall hereafter be concurrent as herein provided; but the County Court of said County as now existing shall have no jurisdiction over other 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 insofar as the same shall by this Act or otherwise be committed exclusively to the County Court at Law No. 1 of Travis County, Texas, or to any other numbered County Court at Law of Travis County, Texas, now or hereafter created.

Sec. 4. The County Judge of Travis County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Travis County transfer to the County Court at Law No. 1 of Travis County or to any other numbered County Court at Law of Travis County, now or hereafter created, any such probate matter or proceeding then pending in the County Court of Travis County and all processes extant at the time of such transfer shall be returned to and filed in the County Court at Law No. 1 of Travis County or any other numbered County Court at Law of Travis County, having jurisdiction thereof, now or hereafter created, and shall be as valid and binding as though originally issued out of said County Court at Law No. 1 of Travis County or any other numbered County Court at Law of Travis County, now or hereafter created. The County Court of Travis County shall have and retain concurrently with the County Court at Law No. 1 of Travis County and any other numbered County Court at Law of Travis County, now or hereafter created, the general jurisdiction of a Probate Court and the jurisdiction now conferred or which may be conferred by law over probate matters.

Sec. 5. The terms of the County Court at Law No. 1 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, except as herein expressly provided.

Sec. 6. The present Judge of the County Court at Law of Travis County, Texas, shall serve as the Judge of the County Court at Law No. 1 of Travis County, Texas, until the next General Election, and until his successor shall have been duly elected and qualified. At each General Election, a Judge of the County Court at Law No. 1 of Travis County Texas, shall be elected by the qualified voters of Travis County. Such Judge must be a qualified voter in said County, must be a regularly licensed attorney at law in this State, and must be a resident of Travis County, Texas, who 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. Such Judge shall hold his office for two (2) years, and until his successor shall have been duly elected and qualified.

Sec. 7. The Judge of the County Court at Law No. 1 of Travis County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A Special Judge of the County Court at Law No. 1 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 same compensation per day for each day he so actually serves as the Judge of the County Court at Law No. 1 of Travis County, Texas, to be paid out of the General Funds of the County by the Commissioners Court.

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

Sec. 9. Any vacancy in the office of the Judge of the County Court at Law No. 1 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, Texas, shall provide suitable quarters for the holding of said County Court at Law No. 1 of Travis County, Texas.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law No. 1 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 No. 1 of Travis County is disqualified.

Sec. 11. The Judge of the County Court at Law No. 1 of Travis County may be removed from office in the same manner and for the same causes as any County Judge or Judge of any County Court at Law may be removed under the laws of this State.

Sec. 12. When either party to a civil case pending in the County Court or County Court at Law No. 1, or any other numbered County Court at Law of Travis County, now or hereafter created, applies therefor, the Judge thereof shall appoint a competent stenographer, 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 Ten Dollars (\$10) 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 Court, and all provisions of law governing statement of facts and bills of exception to be filed in District Court and the use of same on appeal, shall apply to civil cases tried in said Courts.

Sec. 13. The County Court at Law No. 1 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 concurrent or inferior jurisdiction to said County Court at Law No. 1 of Travis County.

Sec. 14. 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 No. 1 of Travis County, or to any other numbered County Court at Law of Travis County, now or hereafter created.

Sec. 15. The County Clerk of Travis County, Texas, shall be the Clerk of the County Court at Law No. 1 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 No. 1 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 No. 1 of Travis County, and he shall be entitled to the same fee as now prescribed by law for such prosecution in the County Courts.

Sec. 16. 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 County Court at Law No. 1 or by any other numbered County Court at Law of Travis County, now or hereafter created, but juries summoned for either or any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to any of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Sec. 17. The Judge of the County Court at Law No. 1 of Travis County shall receive the same salary as is now prescribed or may be established by law for the County Attorney of Travis County, 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 No. 1 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. As amended Acts 1962, 57th Leg., 3rd C.S., p. 117, ch. 41, § 1; Acts 1963, 58th Leg., p. 123, ch. 72, § 1.

Effective 90 days after May 24, 1963, date of adjournment. 147th Judicial District Court of Travis County, see Vernon's Ann.C.C.P. art. 52—61a.

TRAVIS COUNTY COURT AT LAW NO. 2

Art. 1970—324a. County Court at Law No. 2 of Travis County

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 No. 2 of Travis County, Texas, in addition to the present County Court at Law of Travis County, Texas. The effective date of this Act shall be January 1, 1964.

Sec. 2. The County Court at Law No. 2 of Travis County, Texas, shall have and exercise 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. The jurisdiction of the County Court at Law No. 2 of Travis County, Texas, 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 or in the County Court at Law of Travis County, Texas; and such County Court at Law No. 2 of Travis County, Texas, shall exercise and have concurrent jurisdiction with the County Court or County Judge or any other County Court at Law of Travis County, now or hereafter created, until otherwise provided by law, as to all matters of eminent domain and as to all such probate matters as may be assigned to it by the County Judge of Travis County as hereinafter provided; 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 such jurisdiction now conferred by law over probate and eminent domain matters; and such jurisdiction shall hereafter be concurrent as herein provided; but the County Court of said County as now existing shall have no jurisdiction over other mat-

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ters 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 insofar as the same shall by this Act be committed to the County Court at Law No. 2 of Travis County, Texas, or to any other County Court at Law of Travis County, Texas, now or hereafter created.

Sec. 4. The County Judge of Travis County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Travis County transfer to the County Court at Law No. 2 of Travis County or any other County Court at Law of Travis County, now or hereafter created, any such probate matter or proceeding then pending in the County Court of Travis County and all processes extant at the time of such transfer shall be returned to and filed in the County Court at Law No. 2 of Travis County or any other County Court at Law of Travis County, now or hereafter created, until otherwise provided by law, and shall be as valid and binding as though originally issued out of said County Court at Law No. 2 of Travis County or any other such County Court at Law of Travis County. The County Court of Travis County shall have and retain concurrently with the County Court at Law No. 2 of Travis County and any other County Court at Law of Travis County, now or hereafter created, the general jurisdiction of a Probate Court and of jurisdiction now conferred or which may be conferred by law over probate matters.

Sec. 5. The terms of the County Court at Law No. 2 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 until the convening of the next succeeding term. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts, except as herein expressly provided.

Sec. 6. The Commissioners Court of Travis County, Texas, shall appoint a Judge of the County Court at Law No. 2 of Travis County, Texas, who shall serve until the next general election, and until his successor shall have been duly elected and qualified. At each general election, a Judge of the County Court at Law No. 2 of Travis County, Texas, shall be elected by the qualified voters of Travis County. Such Judge must be a qualified voter in said County, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, Texas, who 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. Such Judge shall hold his office for two (2) years, and until his successor shall have been duly elected and qualified.

Sec. 7. The Judge of the County Court at Law No. 2 of Travis County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A Special Judge of the County Court at Law No. 2 of Travis County, may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall receive such compensation as may be provided by law for Special Judges of County Courts or County Courts at Law, whichever is the greater, to be paid out of the general funds of the County by the Commissioners Court.

Sec. 9. Any vacancy in the office of the Judge of the County Court at Law No. 2 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, Texas, shall provide a suitable quarters for the holding of said County Court at Law No. 2 of Travis County, Texas.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law No. 2 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 No. 2 of Travis County is disqualified. Otherwise, a Special Judge may be appointed or elected as is now or may hereafter be provided by law for County Judges or for Judges of County Courts at Law.

Sec. 11. The Judge of the County Court at Law No. 2 of Travis County may be removed from office in the same manner and for the same causes as any County Judge or Judge of a County Court at Law may be removed under the laws of this state.

Sec. 12. When either party to a civil case pending in the County Court or County Court at Law No. 2, or any other County Court at Law of Travis County, now or hereafter created, applies therefor, the Judge thereof shall appoint a competent stenographer, 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 Ten Dollars (\$10.00) 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. 13. The County Court at Law No. 2 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 concurrent or inferior jurisdiction to said County Court at Law No. 2 of Travis County.

Sec. 14. 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 No. 2 of Travis County, or to any other County Court at Law of Travis County, now or hereafter created until otherwise provided by law.

Sec. 15. The County Clerk of Travis County, Texas, shall be the Clerk of the County Court at Law No. 2 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 No. 2 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 No. 2 of Travis County, and he shall be entitled to the same fee as now prescribed by law for such prosecution in the County Courts.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Travis County for the drawing, selection, and service of jurors

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shall be exercised by said County Court at Law No. 2 or by any other County Court at Law of Travis County, but juries summoned for either or any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to any of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Sec. 17. The Judge of the County Court at Law No. 2 of Travis County shall receive the same salary as is now prescribed or may be established by law for the County Attorney of Travis County, 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 No. 2 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 1963, 58th Leg., p. 333, ch. 127.

Effective Jan. 1, 1964.

TITUS COUNTY COURT

Art. 1970—330. Titus County Court; jurisdiction diminished; district court's jurisdiction; prosecutor in misdemeanor cases

Section 1. The County Court of Titus County shall retain and continue to have and exercise the general jurisdiction of probate courts, and all other jurisdiction now or hereafter conferred by the Constitution and laws of this State, except as is hereinafter provided, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but said County Court shall have no civil jurisdiction and no criminal jurisdiction except jurisdiction to receive and enter pleas of guilty in misdemeanor cases, and except as to final judgments referred to in Section 2, hereof, and shall have no general jurisdiction in trial of all matters of eminent domain on appeal from the awards of commissioners. As amended Acts 1963, 58th Leg., p. 158, ch. 96, § 1.

Emergency. Effective April 30, 1963.

Sec. 2. The district court having jurisdiction in Titus County shall have and exercise jurisdiction in all matters and cases of a civil nature and in all matters of a criminal nature, except as to such jurisdiction that the County Court has to receive and enter pleas of guilty in misdemeanor cases as is provided in Section 1 hereof, whether the same be of original jurisdiction or of appellate jurisdiction, and shall have the general jurisdiction in trial of all matters of eminent domain on appeal from the awards of commissioners, over which by the General Laws of the State of Texas now existing and hereinafter enacted the County Court of said County would have had jurisdiction and all pending civil and criminal cases and eminent domain appeals from the awards of commissioners, be and the same are, hereby transferred to the district court having jurisdiction in Titus County, Texas, and all writs and process heretofore issued by or out of said County Court in all pending civil or criminal cases or eminent domain appeals from the awards of commissioners be, and the same are hereby, made returnable to the district court sitting in Titus County, Texas. However, there shall not be transferred to said district court jurisdiction over any judgments, either in civil, criminal or eminent domain cases, rendered prior to the time this Act takes effect and which

have become final, but as to such judgments the said County Court shall retain jurisdiction for the enforcement thereof by all appropriate process. As amended Acts 1963, 58th Leg., p. 158, ch. 96, § 2.

Emergency. Effective April 30, 1963.

LUBBOCK COUNTY

Art. 1970—340. County Court at Law No. 1 of Lubbock County

Sec. 1a. The name and designation of the court created by this Act is hereby changed to the "County Court at Law No. 1 of Lubbock County" and wherever the name "County Court at Law of Lubbock County" shall appear in this Act it shall be deemed to refer to the "County Court at Law No. 1 of Lubbock County." Added Acts 1962, 57th Leg., 3rd C.S., p. 169, ch. 62, § 1.

Emergency. Effective Feb. 16, 1962.

GALVESTON COUNTY COURT NO. 2

Art. 1970—342. County Court No. 2 of Galveston County

Section 1. The Probate Court of Galveston County provided by Section 1, Chapter 187, Acts of the 53rd Legislature, Regular Session, 1953, shall hereafter be known as the "County Court No. 2 of Galveston County." The court shall have, in addition to its present jurisdiction, civil and criminal jurisdiction as provided by the Constitution and General Laws for county courts and as provided herein.

Sec. 2. The county clerk of Galveston County shall be the clerk of the County Court No. 2 of Galveston County. The court shall have a seal consisting of a star of five (5) points with the words "County Court No. 2, Galveston County, Texas" engraved thereon. The sheriff of Galveston County may appoint a deputy to attend the court when required by the judge thereof.

Sec. 3. All cases over which County Court No. 2 has jurisdiction may be instituted in or transferred to the County Court No. 2. The county judge and the district judges of Galveston County may transfer to County Court No. 2 all cases pending in their respective courts of which the court has jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases, with the consent of the Judge of the County Court No. 2.

All cases and matters over which the County Court No. 2 is given jurisdiction may be transferred by the Judge thereof to the county or district courts having jurisdiction under the laws of this state, with the consent of the judge of the court concerned. All cases and matters over which the County Court No. 2 and the County Court of Galveston County have concurrent jurisdiction and over which the district courts also have jurisdiction may be transferred to one of the district courts of Galveston County with the consent of the judge thereof.

Provided that the Judge of the County Court and the Judge of County Court No. 2 shall have authority to transfer any case pending for trial from the docket of such court to the docket of such other court, and during the absence, illness, or inability of either judge to preside in his own court the judge of the other court shall be and is hereby authorized to act for such judge absent for any of the above reasons in the trial or other disposition of cases on the docket of such other court.

All writs or process issued by a court prior to the time any case is transferred shall be returned and filed in the court to which the case is transferred and shall be as valid and binding upon the parties to such transferred case as though such writ or process had been issued out of the court to which transferred, and all waivers of process and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Sec. 4. In the event of a vacancy in this office the Governor shall appoint some suitable person who is a resident citizen of Galveston County as Judge of the County Court No. 2 of Galveston County as herein constituted, who shall hold such office until the next general election after his appointment, and until his successor shall have been elected and qualified, and all vacancies in said office shall also be filled by appointment by the Governor until the next applicable general election thereafter. At the first general election in said county and at each applicable general election thereafter there shall be elected by the qualified voters a Judge of the County Court No. 2 of Galveston County who shall be well informed in the laws of this state, who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified; provided that no person shall be eligible for Judge of the County Court No. 2 of Galveston County by election, unless he shall be a citizen of the United States and of this state; who shall have been a practicing lawyer of this state or a judge of a court in this state for at least four (4) years next preceding his election, and who shall have resided in the County of Galveston for two (2) years next preceding his election.

Sec. 5. The Judge of the County Court No. 2 of Galveston County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 6. A special judge of the County Court No. 2 of Galveston County may be appointed or elected as provided by laws relating to county courts and the judges thereof.

Sec. 7. The terms of the County Court No. 2 of Galveston County and the practice therein and appeals and writs of error therefrom shall be, as prescribed by law relating to county courts. The County Court No. 2 of Galveston County shall hold at least four (4) terms for both civil and criminal business annually, and such other terms each year as may be fixed by the Commissioners Court. After having fixed the times and number of terms of the County Court No. 2 of Galveston County, the Commissioners Court shall not change the same until the expiration of one (1) year. Until otherwise provided by the Commissioners Court, the term of the County Court No. 2 of Galveston County shall be held on the first Monday in March, June, September and December.

Sec. 8. Both the said County Court of Galveston County, and the County Court No. 2 of Galveston County or either of the judges thereof shall have the power to issue writs of injunction, sequestration, attachments, garnishment, certiorari,^{50a} supersedeas and all other writs necessary to the enforcement of the jurisdiction of said courts; and also power to punish for contempt under such provisions as are, or may be provided by the General Laws governing county courts throughout the state, and to issue writs of habeas corpus, in cases where the offense charged is within the jurisdiction of said courts or of any court or tribunal inferior to said courts.

Sec. 9. The Judge of the County Court No. 2 shall be paid by the Commissioners Court of Galveston County a yearly salary of not more than

Fourteen Thousand Dollars (\$14,000) as may be fixed by the Commissioners Court. This salary shall be paid out of the general fund of the county in twelve (12) equal monthly installments.

Sec. 10. The Judge of the County Court No. 2 of Galveston 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. Acts 1953, 53rd Leg., p. 521, ch. 187, as amended Acts 1962, 57th Leg., 3rd C.S., p. 148, ch. 50, § 2.

Emergency. Effective Sept. 1, 1962.

Acts 1961, 57th Leg., p. 621, ch. 291, §§ 1-3, amending this article, was repealed by Acts 1962, 57th Leg., 3rd C.S., p. 148, ch. 50, § 1, effective Sept. 1, 1962.

1961, and any provisions of Chapter 187, Acts of the 53rd Legislature, Regular Session, 1953, which may be in conflict with the provisions contained herein.

Sections 3 and 4 of the amendatory Act of 1962 provided:

"Sec. 3. All laws and parts of laws in conflict herewith be, and the same are hereby repealed, including but not limited to Senate Bill No. 162, Chapter 291, Acts of the 57th Legislature, Regular Session,

"Sec. 4. It is further enacted that if any of the provisions of this Act shall be held void or in conflict with any provisions of the Constitution of this state the fact that such provisions may be held void shall in no wise affect any other provisions of this Act."

SMITH COUNTY

Art. 1970—348. County Court at Law of Smith County

Section 1. There is hereby created a court to be held in Tyler, Smith County, Texas, which shall be known as the County Court at Law of Smith County.

Sec. 2. The County Court at Law of Smith County shall have original and concurrent jurisdiction with the County Court of Smith County, in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of this state, county courts have jurisdiction, except as provided in Section 6 of this Act; but this provision shall not affect jurisdiction of the Commissioners Court or the County Judge of Smith County, Texas, as the presiding officer of the Commissioners Court as to roads, bridges and public highways, and matters of eminent domain, which are now within the jurisdiction of the Commissioners Court or the Judge of Smith County.

With the consent of the other, the judge of either of such courts shall have the power to transfer to the other court any case over which the courts have concurrent jurisdiction pending upon the docket of his court except in cases where the writ of certiorari has been granted.

Sec. 3. The County Court of Smith County shall retain, as heretofore, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by law; and the said court, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said court; and also to punish contempts under such provisions as are or may be provided by General Law governing county courts throughout the state. The County Judge of Smith County shall be the judge of the County Court of Smith County. All ex officio duties of the county judge shall be exercised by

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

the Judge of the County Court of Smith County except insofar as the same shall, by this Act, be committed to the Judge of the County Court at Law of Smith County.

Sec. 4. The terms of the County Court at Law of Smith County shall be as prescribed by the laws relating to the county courts. The terms of the County Court at Law of Smith County shall be held as now established for the terms of the County Court of Smith County and the same may be changed in accordance with the laws governing the change in the terms of the County Court of Smith County.

Sec. 5. At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Smith County who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five (5) years, well-informed in the laws of the state, who shall have resided in and been actively engaged in the practice of law in Smith County, Texas, for a period of not less than two (2) years prior to such general election, and who shall hold his office for the unexpired term. At the general election in November, 1966, he shall be elected to hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Commissioners Court of Smith County, Texas, shall appoint a judge of said court at law of Smith County, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Court at Law of Smith County shall in like manner, as hereinabove provided, be filled by said Commissioners Court of Smith County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

Sec. 6. The Criminal District Attorney of Smith County shall represent the state in all prosecutions in the County Court at Law of Smith County, as provided by law for such prosecutions in county courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the county courts.

Sec. 7. As soon as this Act becomes effective the Commissioners Court of Smith County shall appoint a Judge of the County Court at Law of Smith County, who shall hold his office until the next general election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said court.

Sec. 8. The Judge of the County Court at Law of Smith County may be removed from office in the same manner and for the same causes as any county judge may be removed under the laws of this state.

Sec. 9. The Judge of the County Court at Law of Smith County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 10. A special judge of the County Court at Law of Smith County may be appointed or elected as provided by law relating to county courts and to the judge thereof. He shall receive the sum of Thirty Dollars (\$30) 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. 11. In the case of the disqualification of the Judge of the County Court at Law of Smith 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 Smith County is disqualified. In case of the selection of such special

judge by agreement of the parties or their attorneys, such special judge shall draw the same compensation as that provided in Section 10 of this Act.

Sec. 12. The County Court at Law of Smith County, or the judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the 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 the county court at law.

Sec. 13. The County Clerk of Smith County shall be the clerk of the County Court at Law of Smith County, and the seal of the 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 Smith County."

Sec. 14. The Sheriff of Smith County shall in person or by deputy attend the County Court at Law of Smith County when required by the judge thereof.

Sec. 15. The jurisdiction and authority now vested by law in the County Court of Smith County and the judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law of Smith County and the judge thereof; but jurors and talesmen 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. Upon concurrence of the Judge of the County Court at Law of Smith County and the Judge of the County Court of Smith County jurors may be summoned for service in both courts and shall be used interchangeably in both such courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Sec. 16. Any vacancy in the office of the Judge of the County Court at Law of Smith 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.

Sec. 17. From and after the passage of this Act the Judge of the County Court at Law of Smith County shall receive the same salary as is now prescribed or may be established by law for the Criminal District Attorney of Smith County, 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 Smith 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.

Sec. 18. The Judge of the County Court at Law of Smith County may appoint an official shorthand reporter for such court who shall be well-skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. Such reporter shall take

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the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Smith County to be paid out of the County Treasury of Smith County, as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and are hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 19. The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Smith County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law of Smith County. Acts 1963, 58th Leg., p. 627, ch. 232.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act relating to the creation of a County Court at Law for Smith County; and declaring an emergency. Acts 1963, 58th Leg., p. 627, ch. 232, §

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY**CHAPTER THREE—CITATION**

Art. 2039a. Citation of nonresident motor vehicle operators by serving chairman of State Highway Commission; forwarding notice to defendant

Nonresident employers of labor, service of process on Chairman of Industrial Accident Board, see art. 8306, § 2a.

CHAPTER SEVEN—THE JURY**1. JURIES IN CERTAIN COUNTIES**

Art.

2103b. Use of jury wheel in counties of 29,000 or more [New].

1. JURIES IN CERTAIN COUNTIES

Art. 2094. 5151 Selecting names for wheel

Between the first and fifteenth days of August of each year, in each county having a population of at least forty-six thousand (46,000), or having therein a city containing a population of at least eighteen thousand (18,000), or having a population of at least twenty thousand (20,000) and having therein a city containing a population of at least thirteen thousand (13,000), as shown by the last preceding Federal Census, and in each county having two (2) or more district courts holding sessions therein, regardless of population, except as hereinafter provided, the tax collector or one of his deputies, together with the sheriff or one of his deputies, and the county clerk or one of his deputies, and the district clerk or one of his deputies, shall meet at the courthouse of their county and select from the list of qualified jurors of such county as shown by the tax lists in the tax assessor's office for the current year, the jurors for service in the district and county courts of such county for the ensuing year, in the manner hereinafter provided.

Provided, however, that the provisions of this Act shall not apply to any county having a population of less than twenty thousand (20,000) inhabitants, according to the last preceding Federal Census, when such county is a part of two (2) or more judicial districts, which judicial districts embrace more than two (2) counties. The provisions of this Act shall not apply to any county having a population of at least twenty thousand (20,000) and having therein a city containing a population of at least thirteen thousand (13,000), which is not otherwise within the scope of this Act, unless such county is within a judicial district common to one or more other counties, all of which employ the jury wheel system. As amended Acts 1929, 41st Leg., p. 89, ch. 43, § 1; Acts 1949, 51st Leg., p. 868, ch. 467, § 1; Acts 1950, 51st Leg., 1st C.S., p. 47, ch. 6, § 1; Acts

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1957, 55th Leg., p. 327, ch. 147, § 1; Acts 1963, 58th Leg., p. 142, ch. 84, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Amendment by Acts 1963, 58th Leg., p. 1357, ch. 515, § 1, see art. 2094, post.

Art. 2094. 5151 Selecting names for wheel

Between the first and fifteenth days of August of each year, in each county having a population of at least forty-six thousand (46,000), or having therein a city containing a population of at least eighteen thousand (18,000), or having a population of at least sixteen thousand, seven hundred (16,700) and having therein a city containing a population of at least eight thousand (8,000) but not more than eight thousand, five hundred (8,500), as shown by the last preceding Federal Census, and in each county having two (2) or more district courts holding sessions therein, regardless of population, except as hereinafter provided, the tax collector or one of his deputies, together with the sheriff or one of his deputies, and the county clerk or one of his deputies, and the district clerk or one of his deputies, shall meet at the courthouse of their county and select from the list of qualified jurors of such county as shown by the tax lists in the tax assessor's office for the current year, the jurors for service in the district and county courts of such county for the ensuing year, in the manner hereinafter provided.

Provided, however, that the provisions of this Act shall not apply to any county having a population of less than eighteen thousand, five hundred (18,500) inhabitants, according to the last preceding Federal Census, when such county is a part of two (2) or more judicial districts, which judicial districts embrace more than two (2) counties. As amended Acts 1929, 41st Leg., p. 89, ch. 43, § 1; Acts 1949, 51st Leg., p. 868, ch. 467, § 1; Acts 1950, 51st Leg., 1st C.S., p. 47, ch. 6, § 1; Acts 1957, 55th Leg., p. 327, ch. 147, § 1; Acts 1963, 58th Leg., p. 1357, ch. 515, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Amendment by Acts 1963, 58th Leg., p. 142, ch. 84, § 1, see art. 2094, ante.

Art. 2095. 5152—3 Cards put in wheel; typists and expenses

Said officers shall write the names of all persons who are known to be qualified jurors under the law, residing in their respective counties, on separate cards of uniform size and color, writing also on said cards, whenever possible, the post-office address of each juror so selected, except that in counties having a population of one hundred and forty thousand (140,000) or more, according to the last preceding Federal Census, the Commissioners Court shall provide out of the jury fund a sum sufficient for the employment of typists and payment of other expenses. The typists, under the direction, control and supervision of the District Clerk, shall type the names and addresses of qualified jurors upon the cards as herein described. The expenses so incurred shall be authorized, reported, paid and accounted for under the same laws, rules and regulations as govern the payment of other expenses of the office of the District Clerk in such counties, except as otherwise herein specifically provided. The cards containing said names shall be deposited in a jury wheel, to be provided for such purpose by the Commissioners Court of the county. Said wheel shall be constructed of any durable material and shall be so constructed as to

freely revolve on its axle; and may be equipped with a motor capable of revolving said wheel in such a manner as to thoroughly mix said cards; and shall be kept locked at all times, except when in use as hereinafter provided, by the use of two separate locks, so arranged that the key to one will not open the other lock; and said wheel, and the clasps thereto attached into which the locks shall be fitted, shall be so arranged that the wheel cannot be opened unless both of said locks are unlocked at the time the wheel is opened. The keys to such locks shall be kept, one by the sheriff and the other by the district clerk. The sheriff and the clerk shall not open such wheel, nor permit the same to be opened by any person, except at the time and in the manner and by the persons herein specified; but said sheriff and clerk shall keep such wheel, when not in use, in a safe and secure place, where the same cannot be tampered with. As amended Acts 1929, 41st Leg., p. 263, ch. 116, § 1; Acts 1949, 51st Leg., p. 720, ch. 383, § 1; Acts 1959, 56th Leg., p. 27, ch. 17, § 1; Acts 1963, 58th Leg., p. 110, ch. 61, § 1.

Emergency. Effective April 23, 1963.

Art. 2103b. Use of jury wheel in counties of 29,000 or more

Section 1. In any county not presently required to use the jury wheel system and having a population of twenty-nine thousand (29,000) or more, according to the last preceding Federal Census, the Commissioners Court upon determining that the level and distribution of the population of the county is such that the use of a jury wheel would facilitate the administration of justice may, thereafter, adopt the use of the jury wheel for the selection of jurors for service in the district and county courts.

Sec. 2. Between the first and fifteenth days of August of each year, in such counties, the tax collector or one of his deputies, together with the sheriff or one of his deputies, and the county clerk or one of his deputies, shall meet at the court house of their county and select from the list of qualified jurors of such county as shown by the tax list in the tax assessor's office for the current year, the jurors for service in the district and county courts of such county for the ensuing year in the manner provided by the General Law; provided, however, that when the list of jurors drawn from the wheel is exhausted and additional jurors are needed, the court may direct the sheriff to summon such talesmen as may be deemed necessary. Acts 1963, 58th Leg., p. 973, ch. 395.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER EIGHT—TRIAL OF CAUSES**5. CASE TO JURY**

Art.

2194a. Bringing meals into jury room
[New].

5. CASE TO JURY**Art. 2194a. Bringing meals into jury room**

Section 1. (a) Whenever the judge deems it advisable, in order to expedite the final disposition of any district court civil case for which a jury is empaneled, to keep the jury together for deliberation rather than to dismiss it for meals, he shall have the power to draw a warrant on the jury fund or other appropriate fund of the county in which the case is being

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tried, to cover the cost of buying meals and bringing same into the jury room. However, not more than One Dollar (\$1) may be spent per meal for any juror.

(b) The provisions of this Act shall not apply in any county unless the Commissioners Court has approved jury meals in civil cases as a proper expense of the county. Acts 1963, 58th Leg., p. 419, ch. 144.

Effective 90 days after May 24, 1963, date of adjournment.

Permitting temporary separation for meals, see Vernon's Texas Rules of Civil Procedure, Rule 282.

CHAPTER THIRTEEN—GENERAL PROVISIONS

1. MISCELLANEOUS

Art.

2292a. Appointment of bailiff for 24th and 135th Judicial Districts [New].

3. OFFICIAL COURT REPORTER

- 2326j—15. Compensation of reporters for 109th and 83rd judicial districts [New].
- 2326j—16. Compensation of reporters for 142nd and 143rd judicial districts [New].
- 2326j—17. Compensation of reporter of 18th Judicial District [New].
- 2326j—18. Compensation of reporters for 64th and 154th Judicial Districts [New].
- 2326j—19. Compensation of reporter for 29th Judicial District [New].
- 2326j—20. Compensation of reporter for 121st Judicial District [New].
- 2326j—21. Compensation of reporter for 106th Judicial District [New].
- 2326j—22. Compensation of reporters for 34th, 41st, 65th, and 120th Judicial Districts [New].
- 2326j—23. Compensation of reporters in El Paso county [New].
- 2326j—24. Compensation of reporters for 51st, 119th, 33rd, 35th and 63rd Judicial District [New].
- 2326j—25. Appointment and compensation of reporters for 92nd, 93rd, 139th and 111th Judicial Districts [New].

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- 2326j—26. Compensation of reporters for 135th and 24th Judicial Districts [New].
- 2326j—27. Compensation of reporter for 59th Judicial District [New].
- 2326j—28. Compensation of reporters in judicial districts composed of two counties, one having population of 150,000 to 200,000 [New].
- 2326j—29. Appointment and compensation of reporter for 31st Judicial District [New].
- 2326j—30. Compensation of reporter for 75th Judicial District [New].
- 2326j—31. Compensation of reporter for 15th Judicial District [New].
- 2326j—32. Appointment and compensation of reporters for 117th, 94th, 28th, 105th Judicial Districts and for County Courts at Law Nos. 1 and 2 of Nueces County [New].
- 2326j—33. Compensation of reporter for 9th Judicial District [New].
- 2326j—34. Compensation of reporter for Second 9th Judicial District [New].
- 2326j—35. Appointment and compensation of reporter for 50th Judicial District [New].
- 2326j—36. Compensation of reporter for 124th Judicial District [New].
- 2326j—37. Compensation of reporter for 88th Judicial District [New].
- 2326n. Reporters in counties of 1,000,000 or more population [New].

1. MISCELLANEOUS

Art. 2292a. Appointment of bailiff for 24th and 135th Judicial Districts

The District Judges of the 24th Judicial District and of the 135th Judicial District may appoint, with the approval of the Commissioners Court, an officer of the Court to act as bailiff, whose primary duty shall be to act as interpreter. Such bailiff shall be paid a reasonable salary not to exceed the highest salary paid to any deputy, clerk or assistant employed by the County. Acts 1963, 58th Leg., p. 786, ch. 303, § 1.

Effective 90 days after May 24th, 1963, date of adjournment.

Bailiffs in counties comprising part of two judicial districts of four counties of 136,000 or more combined population, see Vernon's Ann.C.C.P. art. 367j.

2. RECEIVERS

Appointment of receiver for licensee violating provisions of the Texas Regulatory Loan Act, see art. 6165b, § 12(g).

3. OFFICIAL COURT REPORTER

Art. 2326j—1. Appointment and compensation of reporters in 10th, 56th and 122nd judicial districts

The Judges of the Tenth, Fifty-Sixth, and One Hundred Twenty-Second Judicial Districts of Texas, composed of the County of Galveston, shall each appoint an official shorthand reporter for his respective Judicial 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. Each of said official shorthand reporters shall receive a salary of not less than Sixty-six Hundred Dollars (\$6600.00) per annum, nor more than Ninety-six Hundred Dollars (\$9600.00) per annum, said salary to be fixed and determined by the District Judges of the Tenth, Fifty-Sixth, and One Hundred Twenty-Second Judicial Districts composed of Galveston County, and said salary shall be in addition to transcript fees which shall not be more than thirty cents (30¢) per one hundred (100) words. Said salary when so fixed and determined by the District Judges of said respective Judicial Districts shall be paid monthly out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after 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 reporters as provided for in this Act shall be fixed and determined by the District Judges of said Judicial Districts and not otherwise; and the transcript fees shall be as provided for in this Act, and not otherwise. Acts 1957, 55th Leg., p. 820, ch. 350, § 1, as amended Acts 1957, 55th Leg., 2nd C.S., p. 169, ch. 12, § 1; Acts 1963, 58th Leg., p. 499, ch. 184, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2326j—7. Appointment and compensation of reporter in 100th judicial district

Section 1. The Judge of the 100th Judicial District of Texas, composed of the Counties of Carson, Childress, Collingsworth, Donley and Hall, or the Judge of the Judicial District of which the Counties of Carson, Childress, Collingsworth, Donley and Hall 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 Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand, Six Hundred Dollars (\$9,600) per annum, said salary to be fixed and determined by the District Judge of the 100th Judicial District composed of the Counties of Carson, Childress, Collingsworth, Donley and Hall, or by the District Judge of which the Counties of Carson, Childress, Collingsworth, Donley and Hall are a part thereof, and said

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salary shall be in addition to transcript fees as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the 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. Said reporter shall, in addition, receive allowances for his actual and necessary traveling and hotel expenses while actually engaged in the discharge of his duties, not to exceed Six Dollars (\$6) per day for hotel bills, and not to exceed four cents (4¢) a mile when traveling by railway or bus lines, and not to exceed ten cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid after the completion of each term of Court by the respective Counties of the Judicial District for which they are incurred, each County paying the expenses incidental to its own regular or special term of Court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the County, out of the General Fund of the County upon the sworn statement of the reporter approved by the Judge, provided there shall not be paid to any such official shorthand reporter more than One Thousand, Two Hundred and Fifty Dollars (\$1,250) in any one year under the provisions of this Act.

Sec. 3. 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 traveling and hotel expenses shall be as provided for in this Act, and not otherwise. Acts 1959, 56th Leg., p. 1019, ch. 471; Acts 1963, 58th Leg., p. 782, ch. 300.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2326j—15. Compensation of reporters for 109th and 83rd judicial districts

Section 1. From and after the passage of this Act the official shorthand reporter for the 109th Judicial District of Texas, composed of the counties of Andrews, Crane and Winkler, and the official shorthand reporter for the 83rd Judicial District of Texas, composed of the Counties of Reagan, Upton, Pecos, Jeff Davis, Brewster and Presidio, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Eight Thousand Five Hundred Dollars (\$8,500) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 109th Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1962, 57th Leg., 3rd C.S., p. 41, ch. 13, §§ 1, 2.

Emergency. Effective Feb. 1, 1962.

Title of Act:

An Act relating to and fixing minimum and maximum salaries of the official shorthand reporter for the 109th Judicial District

of Texas and the official shorthand reporter for the 83rd Judicial District of Texas; and declaring an emergency. Acts 1962, 57th Leg., 3rd C.S., p. 41, ch. 13.

Art. 2326j—16. Compensation of reporters for 142nd and 143rd judicial districts

Section 1. From and after the passage of this Act the official shorthand reporter for the 142nd Judicial District of Texas composed of Midland County, and the 143rd Judicial District of Texas, composed of the counties of Loving, Reeves and Ward, shall receive a salary of not less than Six Thousand Six Hundred (\$6,600.00) Dollars per annum, nor more than Eight Thousand Five Hundred (\$8,500.00) Dollars per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters of this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 142nd Judicial District of Texas composed of Midland County, and the 143rd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as set in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1962, 57th Leg., 3rd C.S., p. 70, ch. 25, §§ 1, 2.

Effective 90 days after Feb. 1, 1962, date of adjournment.

Title of Act:

An Act relating to and fixing minimum and maximum salary of the official short-

hand reporter for the 142nd Judicial District of Texas composed of Midland County, and the 143rd Judicial District of Texas; with saving clause; and declaring an emergency.

Art. 2326j—17. Compensation of reporter of 18th Judicial District

Section 1. The official shorthand reporter for the 18th Judicial District of Texas, composed of the Counties of Johnson and Somervell, shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Seven Thousand, Five Hundred Dollars

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(\$7,500) per annum, which shall be determined, fixed and set by the Judge of said District; and from and after the time that said Judge shall have entered an order in the minutes of the Court, in each County of said District, which shall be a public record and open for inspection; stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set, shall be paid monthly, by and in the proportion for each County of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 18th Judicial District shall have been determined, fixed and set by the Judge of said District, in the manner and within the amount limits, as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1963, 58th Leg., p. 38, ch. 25.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act relating to and fixing minimum and maximum salary of the official short-

hand reporter for the 18th Judicial District of Texas; providing for severability; and declaring an emergency. Acts 1963, 58th Leg., p. 38, ch. 25.

Art. 2326j—18. Compensation of reporters for 64th and 154th Judicial Districts

Section 1. From and after the passage of this Act the Official Shorthand Reporter for the 154th Judicial District of Texas, composed of the Counties of Lamb, Bailey and Parmer, and the Official Shorthand Reporter for the 64th Judicial District of Texas, composed of the Counties of Hale, Swisher and Castro, shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set in each of said Districts by the respective Judges thereof; and from and after the time that said Judges, or either of them, shall have entered an Order in the Minutes of the Court, in each County of said District, which Order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said Order with each Commissioners Court of the District, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each County of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of Official Shorthand Reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the Official Shorthand Reporter for either the 154th Judicial District or the 64th Judicial District shall have been determined, fixed and set by the Judge of either said District, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said Official Shorthand Reporter as in this Act provided, and not otherwise. Acts 1963, 58th Leg., p. 147, ch. 88.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act relating to and fixing minimum and maximum salaries of the Official

Shorthand Reporter for the 154th Judicial District of Texas and the Official Shorthand Reporter for the 64th Judicial District of Texas; and declaring an emergency. Acts 1963, 58th Leg., p. 147, ch. 88.

Art. 2326j—19. Compensation of reporter for 29th Judicial District

Section 1. The official shorthand reporter of the 29th Judicial District of Texas shall receive a salary of not less than Four Thousand, Eight Hundred Dollars (\$4,800) per annum, nor more than Eight Thousand, Four Hundred Dollars (\$8,400) per annum. Said salary to be fixed and determined by the District Judge of the 29th Judicial District Court, and shall be paid monthly by the Commissioners Court of each of the counties comprising the 29th Judicial District of Texas 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 29th Judicial District, or in the proportion for each county of the 29th Judicial District as provided by law.

Said reporter shall, in addition, receive allowances for his actual and necessary traveling, meals and hotel expenses while actually engaged in the discharge of his duties, not to exceed more than One Thousand, Seven Hundred Dollars (\$1,700) in any one year, such expenses will be paid by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county out of the General Fund.

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 and not otherwise, and the allowances for traveling, meals and hotel expenses shall be as provided for in this Act, and not otherwise. Acts 1963, 58th Leg., p. 159, ch. 97.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act relating to the salary of the official shorthand reporter of the 29th Judi-

cial District; providing for travel expenses; and declaring an emergency. Acts 1963, 58th Leg., p. 159, ch. 97.

Art. 2326j—20. Compensation of reporter for 121st Judicial District

Section 1. From and after the passage of this Act the official shorthand reporter for the 121st Judicial District of Texas, composed of the counties of Hockley, Terry, Yoakum and Cochran, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 121st Judicial District shall have been determined, fixed and set by the judge of said dis-

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trict, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1963, 58th Leg., p. 483, ch. 172.

Effective 90 days after May 24, 1963, date of adjournment. hand reporter for the 121st Judicial District of Texas; and declaring an emergency. Acts 1963, 58th Leg., p. 483, ch. 172.

Title of Act:

An Act relating to and fixing minimum and maximum salary of the official short-

Art. 2326j—21. Compensation of reporter for 106th Judicial District

Section 1. The official shorthand reporter for the 106th Judicial District of Texas, composed of the Counties of Gaines, Dawson, Lynn and Garza, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600.00) per annum, nor more than Nine Thousand Dollars (\$9,000.00) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 106th Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1963, 58th Leg., p. 490, ch. 177.

Effective 90 days after May 24, 1963, date of adjournment. reporter for the 106th Judicial District of Texas; providing a savings clause; and declaring an emergency. Acts 1963, 58th Leg., p. 490, ch. 177.

Title of Act:

An Act providing the minimum and maximum salaries of the official shorthand

Art. 2326j—22. Compensation of reporters for 34th, 41st, 65th and 120th Judicial Districts

Section 1. From and after the passage of this Act the official shorthand reporter for the 34th Judicial District of Texas composed of the counties of El Paso, Hudspeth, and Culberson, and the 41st Judicial District of Texas composed of the county of El Paso, and the 65th Judicial District of Texas composed of the county of El Paso, and the 120th Judicial District of Texas composed of the county of El Paso, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600.00) per annum, nor more than Eight Thousand Five Hundred Dollars (\$8,500.00) per annum, which shall be determined, fixed and set by the judge of said district and at the pleasure of said judge; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed

and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. The official court reporters herein named shall, in addition to their other duties, perform such additional duties as may be assigned to the respective court reporter by the judge of the respective district; and the judge of each said district herein named may assign the official court reporter of his said district to any other court herein named or into the County Court or County Courts at Law of El Paso County, Texas, whenever he deems it proper and expedient.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except as herein set forth and save and except that when the salary of the official shorthand reporter for the 34th Judicial District, the 41st Judicial District, the 65th Judicial District and the 120th Judicial District shall have been determined, fixed and set by the judge of said districts, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1963, 58th Leg., p. 605, ch. 219.

Effective 90 days after date of adjournment.

Art. 2326j—23. Compensation of reporters in El Paso county

Section 1. From and after the passage of this Act the official shorthand reporters for each of the county courts at law, civil and criminal, in El Paso County, Texas, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600.00) per annum, nor more than Eight Thousand Five Hundred Dollars (\$8,500.00) per annum, which shall be determined, fixed and set by the judge of each respective court and at the pleasure of such judge; and from and after the time that said judge shall have entered an order in the minutes of the court, in said county, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of the county, the salary so determined, fixed and set shall be paid monthly by and in the proportion for the county as provided by law out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. The official court reporters herein named shall, in addition to their other duties, perform such additional duties as may be assigned to the respective court reporter by the judge of the respective county court; and the judge of each said county court herein named may assign the official court reporter of his said county court to any other court herein named or into the Judicial District Courts of El Paso County, Texas, whenever he deems it proper and expedient.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except as herein set forth, and save and except that when the salary of the official shorthand reporter for the county courts of El Paso County shall have been determined and fixed by the judge of said county in the manner and within the amount limits as in this Act provided, said salary shall be paid

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to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1963, 58th Leg., p. 608, ch. 221.

Effective 90 days after May 24, 1963, date of adjournment.

Official shorthand reporter for County Court at Law of El Paso County, see art. 1970—136.

Art. 2326j—24. Compensation of reporters for 51st, 119th, 33rd, 35th and 63rd Judicial Districts

Section 1. From and after the passage of this Act, the Official Shorthand Reporter for the 51st Judicial District of Texas, composed of the counties of Tom Green, Coke, Irion, Sterling and Schleicher, and the Official Shorthand Reporter for the 119th Judicial District of Texas, composed of the counties of Coleman, Concho, Runnels, and Tom Green, and the Official Shorthand Reporter for the 33rd Judicial District of Texas, composed of the counties of Mason, Blanco, Menard, San Saba, Llano and Burnet, and the Official Shorthand Reporter for the 35th Judicial District of Texas, composed of the counties of McCulloch, Brown and Coleman, and the Official Shorthand Reporter of the 63rd Judicial District of Texas, composed of the counties of Val Verde, Terrell, Maverick, Kinney and Edwards, shall receive a salary of not less than Six Thousand Six Hundred (\$6,600) Dollars per annum, nor more than Eight Thousand Five Hundred (\$8,500) Dollars per annum, which shall be determined, fixed and set by the judge of said judicial district; from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general funds, or out of the jury funds, or out of any funds available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of Official Shorthand Reporters in this state, and as to allowances to them for transcript fees and hotel and traveling expenses, shall govern, save and except that when the salaries of the Official Shorthand Reporter of the 51st Judicial District, and save and except that when the salaries of the Official Shorthand Reporter of the 119th Judicial District, and save and except that when the salaries of the Official Shorthand Reporter of the 33rd Judicial District, and save and except that when the salaries of the Official Shorthand Reporter of the 35th Judicial District, and save and except when the salaries of the Official Shorthand Reporter of the 63rd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits provided in this Act, said salary shall be paid to said Official Shorthand Reporter as provided in this Act and not otherwise. Acts 1963, 58th Leg., p. 622, ch. 228.

Emergency. Effective May 30, 1963.

Art. 2326j—25. Appointment and compensation of reporters for 92nd, 93rd, 139th and 111th Judicial Districts

Section 1. The Judges of the District Courts of the Ninety-second, Ninety-third and One Hundred Thirty-ninth Judicial Districts of Texas, shall each appoint an official shorthand reporter for his respective judicial 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 more than Eight Thousand Five Hundred Dollars (\$8,500.00) per annum, said salary to be fixed and determined by the judges of the Ninety-second, Ninety-third and One Hundred Thirty-ninth District Courts of Hidalgo County, and shall be in addition to transcript fees, fees for statement of fact and all other fees. Said salary when so fixed and determined by the district judges of said respective courts shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court of Hidalgo County, Texas. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the district judges of the Ninety-second, Ninety-third and One Hundred Thirty-ninth District Courts of Hidalgo County, Texas, and not otherwise.

Sec. 2. The official shorthand reporter of the One Hundred Eleventh Judicial District of Texas, composed of the County of Webb, shall receive a reasonable salary of not less than Six Thousand Six Hundred Dollars (\$6,600.00) per annum nor more than Eight Thousand Dollars (\$8,000.00) per annum, in addition to the compensation for transcription fees as provided by law. Such reasonable salary shall be determined, fixed and set by the Judge of said Judicial District; and from and after that time that said Judge shall have entered an order in the minutes of the court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Webb County, the salary so determined, fixed and set shall be paid monthly out of the general fund, or out of the jury fund, or out of any fund available for the purpose. Acts 1963, 58th Leg., p. 639, ch. 235.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2326j—26. Compensation of reporters for 135th and 24th Judicial Districts

Section 1. The official shorthand reporter for the 135th Judicial District and the official shorthand reporter for the 24th Judicial District shall each receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Seven Thousand Six Hundred Dollars (\$7,600) per annum. Subject to the limitations prescribed herein, the salary of the official shorthand reporter for the 135th Judicial District shall be determined, fixed, and set by the judge of the 135th Judicial District Court, and the salary of the official shorthand reporter for the 24th Judicial District shall be determined, fixed, and set by the judge of the 24th Judicial District Court. From and after the time that each of such judges shall have entered an order in the minutes of his court, in each county of the district, stating specifically the amount of salary to be paid to the official shorthand reporter of the district and shall have filed a copy of such order with each Commissioners Court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose; provided, however, that the Commissioners Court of each county shall have the discretion to determine whether or not said county shall contribute its proportion of any salary increase authorized by this Act. Such order of each district judge shall be a public record and open for inspection.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, but when the salary of the official shorthand reporter for the 135th Judicial District and the salary of the official shorthand reporter for the 24th Judicial District shall have been determined, fixed, and set as provided herein, such salary shall be paid to such official shorthand reporters as provided in this Act, and not otherwise. Acts 1963, 58th Leg., p. 641, ch. 237.

Effective 90 days after May 24, 1963, date
of adjournment.

Art. 2326j—27. Compensation of reporter for 59th Judicial District

Section 1. The Judge of the 59th Judicial District of Texas, composed of Collin and Grayson Counties, 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 Sixty-six Hundred Dollars (\$6600) per annum, nor more than Nine Thousand Six Hundred Dollars (\$9,600) per annum, said salary to be fixed and determined by the District Judge of the 59th Judicial District composed of Collin and Grayson Counties, and said salary shall be in addition to transcript fees. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts of Collin and Grayson Counties.

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. Acts 1963, 58th Leg., p. 673, ch. 247.

Effective 90 days after May 24, 1963, date
of adjournment.

Art. 2326j—28. Compensation of reporters in judicial districts composed of two counties, one having population of 150,000 to 200,000

Section 1. The official shorthand reporter of any judicial district of Texas which is composed of two counties, one of which has a population of not less than one hundred and fifty thousand (150,000) and not more than two hundred thousand (200,000) and either of which borders on the Republic of Mexico, is authorized to receive a salary of not more than Eight Thousand, Five Hundred Dollars (\$8,500) per annum and all other compensation now provided by law to be paid said official shorthand reporter, the specific amount of such salary to be fixed by the district judges of the judicial district.

Sec. 2. The salary of the official shorthand reporter shall be paid in equal monthly installments by the counties composing such judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district as shown by the last preceding federal census. Such salaries may be paid out of the general fund, the jury fund or any other fund lawfully available for such purpose.¹ Acts 1963, 58th Leg., p. 702, ch. 259.

¹ So in enrolled bill.

Effective 90 days after May 24, 1963, date
of adjournment.

Art. 2326j—29. Appointment and compensation of reporter for 31st Judicial District

Section 1. The Judge of the 31st Judicial District of Texas, composed of the Counties of Gray, Wheeler, Hemphill, Lipscomb and Roberts, or the Judge of the Judicial District of which the Counties of Gray, Wheeler, Hemphill, Lipscomb and Roberts 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 Fifty-five Hundred Dollars (\$5,500) per annum, nor more than Eighty-five Hundred Dollars (\$8,500) per annum, said salary to be fixed and determined by the District Judge of the 31st Judicial District, composed of the Counties of Gray, Wheeler, Hemphill, Lipscomb and Roberts, or by the District Judge of which the Counties of Gray, Wheeler, Hemphill, Lipscomb and Roberts are a part thereof, and said salary shall be in addition to transcript fees, fees for statements of fact and all other fees as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the 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. Said reporter shall, in addition, receive allowances for his actual and necessary traveling and hotel expenses while actually engaged in the discharge of his duties, not to exceed Six Dollars (\$6) per day for hotel bills, and not to exceed four cents (4¢) a mile when traveling by railway or bus lines, and not to exceed ten cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid after the completion of each term of court by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county, out of the General Fund of the county upon the sworn statement of the reporter approved by the Judge, provided there shall not be paid to any such official shorthand reporter more than Seven Hundred Fifty Dollars (\$750) in any one year under the provisions of this Act.

Sec. 3. 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 traveling and hotel expenses shall be as provided for in this Act, and not otherwise. Acts 1963, 58th Leg., p. 726, ch. 266.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2326j—30. Compensation of reporter for 75th Judicial District

Section 1. The official shorthand reporter for the 75th Judicial District of Texas, composed of the Counties of Liberty and Chambers, shall

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

receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set by the Judge of said District, with the approval of the Commissioners Court of each of the counties comprising the 75th Judicial District, and from and after the time that said Judge shall have entered an order in the minutes of the Court, in each county of said District, which shall be a public record and open for inspection; stating specifically the amount of salary to be paid said reporter, and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined and approved, fixed and set, shall be paid monthly, by and in the proportion for each County of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in the State, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 75th Judicial District shall have been determined, fixed and set by the Judge of said District, in the manner and within the amount limits, as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise. Acts 1963, 58th Leg., p. 762, ch. 289.

Art. 2326j—31. Compensation of reporter for 15th Judicial District

Section 1. The Judge of the 15th Judicial District of Texas, composed of Grayson County, 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 Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand, Six Hundred Dollars (\$9,600) per annum, said salary to be fixed and determined by the District Judge of the 15th Judicial District composed of Grayson County, and said salary shall be in addition to transcript fees. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Court of Grayson County.

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. Acts 1963, 58th Leg., p. 783, ch. 301.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2326j—32. Appointment and compensation of reporters for 117th, 94th, 28th, 105th Judicial Districts and for County Courts at Law Nos. 1 and 2 of Nueces County

Section 1. The Judges of the District Courts of the 117th, 94th, 28th and 105th Judicial Districts of Texas, and the Judges of County Court at Law No. 1 and County Court at Law No. 2, Nueces County, Texas, shall each appoint an official shorthand reporter for his respective Judicial District or Court in the manner now provided for District Courts and

County Courts at Law in this State, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporters shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) and not more than Eight Thousand, Five Hundred Dollars (\$8,500) per annum, said salary to be fixed and determined by the Judges of the District Courts of the 117th, 94th, 28th and 105th Judicial Districts of Texas, subject to the consent and approval of the Commissioners Courts of the counties composing said Judicial Districts, and the respective Judges of County Court at Law No. 1 and County Court at Law No. 2 of Nueces County, Texas, subject to the consent and approval of the Commissioners Court of Nueces County, Texas, and shall be in addition to transcript fees, fees for statements of facts and all other fees.

Sec. 2. Where any of said Judicial Districts include more than one county, the salary of the official shorthand reporter for such Judicial Districts shall be paid by the counties composing such Judicial Districts in accordance with the proportion that the population of each county bears to the total population of the Judicial District as shown by the last preceding Federal Census. Such salaries shall be paid in equal monthly installments, and may be paid out of the general fund or any other fund available for such purpose as may be determined by the County Commissioners Court.

Sec. 3. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporters for the 117th, 94th, 28th and 105th Judicial Districts of Texas, and the County Court at Law No. 1 and County Court at Law No. 2 of Nueces County, Texas, shall be fixed and determined as provided in this Act. Acts 1963, 58th Leg., p. 784, ch. 302.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 784, ch. 302, § 4, repealed all conflicting laws and parts of laws to extent of conflict.

Art. 2326j—33. Compensation of reporter for 9th Judicial District

Section 1. The official shorthand reporter of the 9th Judicial District of Texas, composed of the Counties of Polk, San Jacinto, Montgomery and Waller, shall receive a salary of not more than Nine Thousand and Six Hundred Dollars (\$9,600) per annum, in addition to all other expenses and fees now or as hereafter may be provided by law to be paid to such reporter.

Sec. 2. The salary of such reporter shall be paid monthly out of the general fund or the jury fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts of such Counties, by the respective Counties of the Judicial District in accordance with the proportion fixed, made and determined by the district judge of such Judicial District as to the amount to be paid monthly by each County in the Judicial District. Acts 1963, 58th Leg., p. 790, ch. 305.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2326j—34. Compensation of reporter for Second 9th Judicial District

Section 1. The official shorthand reporter of the Second 9th Judicial District of Texas, composed of the Counties of Montgomery, Polk, San Jacinto and Trinity, shall receive a salary of not more than Nine Thousand,

Six Hundred Dollars (\$9,600) per annum, in addition to all other expenses and fees now or as hereafter may be provided by law to be paid to such reporter.

Sec. 2. The salary of such reporter shall be paid monthly out of the General Fund or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts of such Counties, by the respective Counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of such Judicial District as to the amount to be paid monthly by each County in the Judicial District. Acts 1963, 58th Leg., p. 790, ch. 306.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2326j—35. Appointment and compensation of reporter for 50th Judicial District

Section 1. The judge of the 50th Judicial District of Texas, composed of the Counties of Baylor, Knox, King and Cottle, or the Judge of the Judicial District of which the Counties of Baylor, Knox, King and Cottle 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 Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand, Six Hundred Dollars (\$9,600) per annum, said salary to be fixed and determined by the District Judge of the 50th Judicial District composed of the Counties of Baylor, Knox, King and Cottle, or by the District Judge of which the Counties of Baylor, Knox, King and Cottle are a part thereof, and said salary shall be in addition to transcript fees as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the 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. Said reporter shall, in addition, receive allowances for his actual and necessary traveling and hotel expenses while actually engaged in the discharge of his duties, not to exceed Six Dollars (\$6) per day for hotel bills, and not to exceed Four Cents (4¢) a mile when traveling by railway or bus lines, and not to exceed Ten Cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid after the completion of each term of court by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the County, out of the General Fund of the County upon the sworn statement of the reporter approved by the Judge, provided there shall not be paid to any such official shorthand reporter more than One Thousand Dollars (\$1,000) in any one year under the provisions of this Act.

Sec. 3. 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 traveling and hotel expenses shall be as provided for in this Act, and not otherwise. Acts 1963, 58th Leg., p. 833, ch. 316.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2326j—36. Compensation of reporter for 124th Judicial District

Section 1. The official shorthand reporter for the 124th Judicial District of Texas shall receive a salary of not less than Four Thousand, Eight Hundred Dollars (\$4,800) nor more than Seven Thousand, Six Hundred Dollars (\$7,600) per annum, said salary to be fixed, determined and set by the Judge of the 124th District Court and shall be in addition to transcript fees, fees for statements of facts and all other fees. From and after the time that said Judge shall have entered an order in the minutes of said Court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Gregg County, the salary so determined, fixed and set shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose. Provided, however, that any amount in excess of Four Thousand, Eight Hundred Dollars (\$4,800) per annum shall be subject to the approval of the Commissioners Court of Gregg County.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, except that when the salary of the official shorthand reporter for the 124th Judicial District shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said official shorthand reporter as provided in this Act, and not otherwise. Acts 1963, 58th Leg., p. 849, ch. 324.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2326j—37. Compensation of reporter for 88th Judicial District

From and after the passage of this Act, the official shorthand reporter of the 88th Judicial District of Texas shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum as fixed by the Commissioners Court of Hardin and Tyler Counties, in addition to any compensation for transcription as may be provided by law. Such salary shall be paid monthly upon approval of the Judge of the 88th Judicial District Court and shall be paid by the Commissioners Court of each of the Counties pro rata under existing statutes comprising the 88th Judicial District of Texas. Such salary shall be payable out of the General Fund, Officers Salary Fund, the Jury Fund, or any fund available for that purpose. Acts 1963, 58th Leg., p. 974, ch. 396, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

porter of the 88th Judicial District of Texas; and declaring an emergency. Acts 1963, 58th Leg., p. 974, ch. 396.

Title of Act:

An Act providing for the salary and payment thereof of the official shorthand re-

Art. 2326n. Reporters in counties of 1,000,000, or more population

Section 1. In all counties in the State of Texas having a population of one million (1,000,000) or more, according to the last preceding

COURTS—DISTRICT AND COUNTY Art. 2326n.

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

Federal Census, the judge of each district court, civil or criminal, and the judge of each county court at law, civil or criminal, shall appoint an official shorthand reporter for such court. Said appointment shall be evidenced by an order entered in the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the judge of the court in which such reporter serves. The compensation of such reporters shall be fixed by the commissioners court after the recommendation of the judge of the court in which such reporter serves at not less than Six Thousand Dollars (\$6,000) per annum and not more than Ten Thousand Six Hundred Dollars (\$10,600) per annum, in addition to compensation for transcripts, statements of facts and other fees. As amended Acts 1963, 58th Leg., p. 658, ch. 242, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 2. A certified copy of the order appointing such reporter and the recommendation of the Judge as to the salary to be paid such reporter shall be transmitted to the Commissioners Court of such counties, who shall annually make provision for the payment of any such salary set by the Commissioners Court out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a-1 and 2326c, Vernon's Annotated Civil Statutes. The last four mentioned Articles shall remain in full force and effect. Acts 1959, 56th Leg., p. 485, ch. 215.

Emergency. Effective May 21, 1959.

Section 4 of the Act of 1959, contained a severability clause.

TITLE 43—COURTS—JUVENILE

<p>Art. 2338—11a. Court of Domestic Relations No. 4 for Harris County [New].</p> <p>2338—15. Court of Domestic Relations for Tarrant County [New].</p>	<p>Art. 2338—16. Court of Domestic Relations for Galveston County [New].</p> <p>2338—17. Court of Domestic Relations for Taylor County [New].</p>
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Art. 2330. 2184 "Dependent or neglected child"

Adoption of children of parents whose rights have been terminated by juvenile court order, see art. 46a, § 6.

Art. 2335. 2189 Adjudication

Upon the hearing of such case, if the said child shall be found to be a dependent or neglected child, as defined herein, it shall be adjudged a "dependent child"; and an order may be entered making disposition of said child as to the court seems best for its moral and physical welfare. It may be turned over to the custody of any suitable person or any suitable institution in the county or State organized for the purpose of caring for "dependent children," and which is able and willing to care for same. And when such child is so turned over to the custody of such person or institution, such person or institution shall have the right to the custody of said child, and shall be at all times responsible for its education and maintenance, including the providing of such dental, medical and surgical care and treatment as may be necessary. As amended Acts 1962, 57th Leg., 3rd C.S., p. 192, ch. 71, § 1.

Emergency. Effective Feb. 16, 1962.

Art. 2337. Custody of child

Adoption of children of parents whose rights have been terminated by juvenile court order, see art. 46a, § 6.

Art. 2338—10. Court of Domestic Relations for Nueces County**Judge; compensation**

Sec. 2. The Judge of the County Court at Law No. 2 of Nueces County shall be the Judge of the Court of Domestic Relations hereby established, and his duties as Judge of the Court of Domestic Relations shall be in addition to his regular duties as Judge of the County Court at Law No. 2, and for the performance of these additional duties, he shall be compensated in the sum of Two Thousand Dollars (\$2,000) per year to be paid out of the General Fund of Nueces County, Texas, in addition to the salary which he receives as Judge of the County Court at Law No. 2. The Judge of the Court of Domestic Relations shall be a member of the Juvenile Board of Nueces County, and for this additional work as a member of the Juvenile Board he shall be allowed compensation in like manner and like amount as is paid to the other members of such Juvenile Board, such additional compensation to be paid in addition to any other compensation to which he is entitled under the provisions of law, to be paid out of the General Fund of Nueces County, Texas. The compensation of the Judge of the Court of Domestic Relations shall be paid in twelve (12)

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

equal monthly installments. As amended Acts 1963, 58th Leg., p. 735, ch. 274, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2338—11a. Court of Domestic Relations No. 4 for Harris County

Creation of courts

Section 1. There is hereby created an additional Court of Domestic Relations to be known as Court of Domestic Relations No. 4 in and for Harris County, Texas.

Judges: juvenile board

Sec. 2. The Judge of the Court of Domestic Relations No. 4 shall be a legally licensed attorney at law in the State. No person shall be elected or appointed Judge of said Court who has not been a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. He shall be paid a salary which shall be equal to the total salary paid to a District Judge of Harris County. His salary shall be paid out of the General Fund of Harris County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of Harris County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Harris County, the County Judge of Harris County, and the Judges of the several Courts of Domestic Relations for Harris County, which Juvenile Board shall be authorized to designate the Court of Domestic Relations No. 4 as a Juvenile Court of Harris County. Judges of the District Courts and Criminal District Courts and Courts of Domestic Relations shall continue to receive such compensation for their services as members of the Juvenile Board and otherwise from County funds as they are entitled to receive under General or Special Law.

Jurisdiction

Sec. 3. Said Court of Domestic Relations No. 4 shall have jurisdiction concurrent with the District Courts and Courts of Domestic Relations situated in said County of all cases involving adoptions, removal of disability of minority and coverture, change of name of persons, delinquent, neglected or dependent child proceedings, Reciprocal Support Act, and all jurisdiction, powers and authority now or hereafter placed in the District, Domestic Relations or County Courts under the juvenile and child-welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearings, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District, Domestic Relations or County Courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law. All cases enumerated or included above may be instituted in or transferred to said Court.

Transfer of cases and papers

Sec. 4. The Court of Harris County, the County Courts at Law of Harris County, and the District Courts of Harris County may transfer to the Court of Domestic Relations No. 4 any and all cases, in their respective courts in Harris County, Texas, which said Court of Domestic Rela-

tions is hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

Writs and process in transferred cases

Sec. 5. All writs and process issued by or out of a District, Domestic Relations, or County Court prior to the time any case is transferred by any of said courts to the Court of Domestic Relations No. 4 shall be returned and filed in said Domestic Relations Court and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the said Court of Domestic Relations No. 4, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of record; place of sitting; seal; dockets and records; clerks

Sec. 6. The said Court of Domestic Relations No. 4 shall be a court of record, shall sit and hold court at the county seat in Harris County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Harris County shall serve as the Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform generally all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of the Court of Domestic Relations No. 4 shall have a star of five points with the words "Court of Domestic Relations No. 4, Harris County, Texas" engraved thereon.

Term of office of the judges; appointment and elections; removal; vacancies; cooperation by juvenile board; disqualification, etc.; special judges

Sec. 7. The term of office of the Judge of the Court of Domestic Relations No. 4 shall be for a period of four (4) years, the first full term of the Court of Domestic Relations No. 4 to commence on January 1, 1964. Immediately upon passage of this Act, the Governor shall appoint a suitable person as Judge of said Court, such Judge to hold office until the next general election and until his successor shall be duly elected and qualified. Thereafter, such Judge shall be elected as provided by the Constitution and laws of the State for the election of District Judges. He shall be subject to removal of office for the same reasons and in the same manner as is provided by the Constitution and laws of the State for the removal of County Officers. Vacancies in such office shall be filled by appointment by the Governor. The Juvenile Board and its members shall give council and advice to said Judge of the Court of Domestic Relations No. 4 when deemed necessary or when sought by him; and shall cooperate with him in the administration of the affairs of said Court. In the event of disqualification of such Judge to try a particular case, or because of the illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board shall select a special judge who shall hold the court and proceed with the business thereof.

Boards and officers, duties of

Sec. 8. It shall be the duty of all officers, agents and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constable of Harris County to furnish to said Court such services in the line of their respective duties as shall be required by said Court; and all sheriffs and constables within the State of Texas shall render the same service and perform the same

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

duties with reference to process and writs from said Court as is required of them by law with reference to process and writs from District Courts.

Court reporter, bailiff

Sec. 9. The Judge of the Court created herein shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporter of District Courts in Harris County and whose salary shall be paid by the Commissioners Court of Harris County. A bailiff shall be designated by the Sheriff of Harris County to serve in the Court created herein as in other courts of the County.

Custody of children; investigation

Sec. 10. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of eighteen (18) years, and in any other case involving the custody of any such child, the said Court or Judge thereof, in its or his discretion, may require any such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of such child or children, and to make report thereof to such Court, and, if desired by the Court, to produce such evidence on any hearing in such case as may have been developed in connection with such examination.

Writs and orders; contempt

Sec. 11. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have the power, as in District Courts, to punish for contempt.

Terms of court

Sec. 12. The first term of such Court created herein shall begin when the Judge of such Court is duly selected and qualified, and remain in session until the first day of the following September; and its terms shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 13. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the First Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Procedure

Sec. 14. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provision of this Act and the laws and rule pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

District attorney to prosecute or defend

Sec. 15. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Board, Coun-

ty Welfare Office, County Health Officer or any other welfare agency is interested.

Transfer of cases between courts

Sec. 16. All cases, complaints and other matters over which the said Court of Domestic Relations No. 4 is herein given jurisdiction may be transferred to or instituted in said Court; but said Court, and the Judge therein, may transfer any such cases or matters to the County, Domestic Relations or District Court having jurisdiction thereof under the laws of the State, with the consent of the Judge of said Court, to be tried in such Court to which such transfer is made.

Exchange and transfer of cases

Sec. 16A. The Judge of said Court of Domestic Relations of Harris County, and the judges of the other courts of Domestic Relations of Harris County may, in their discretion, exchange benches or courts from time to time, and may transfer cases and other proceedings from one court to another, and any or either of said judges of said courts of Domestic Relations of Harris County may, in his own courtroom, try and determine any case or proceeding pending in either of such other Courts of Domestic Relations without having the case transferred, or may sit in any other of such Courts and hear and determine any case there pending, and every judgment and order shall be entered in the minutes of the Court in which the case is pending and at the time the judgment or order is rendered, and two or more of such Judges of such Court of Domestic Relations may try different cases in the same Court at the same time, and each may occupy his own courtroom or the courtroom of any other such Court. The Judge of any or either of such Courts may issue restraining orders and injunctions, or other orders and processes returnable to any other such Judge of such Court and any such Judge may transfer any case or proceeding pending in his Court to any other of said Courts, and the Judge of any such Court to which a case or proceeding is transferred shall receive and try the same, and in turn shall have power, in his discretion, to transfer any such case to any other of said Courts, and any other such Judge may in his courtroom try any case pending in any other of such Courts. Acts 1963, 58th Leg., p. 778, ch. 299.

Effective 90 days after May 24, 1963, date of adjournment.

Court of Domestic Relations for Harris County, see art. 2338—5.

Art. 2338—14. Court of Domestic Relations for Jefferson County

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerks

Sec. 6. (a) The Court of Domestic Relations shall be a court of record; shall sit and hold court at the county seat in Jefferson County and at Port Arthur, Texas, as hereinafter provided; shall have a seal, and maintain all necessary dockets, records and minutes therein. The District Clerk of Jefferson County shall serve as the clerk of said court. He shall keep a fair record of all acts done and proceedings had in said court and shall perform generally all such duties as are required generally of district clerks insofar as the same may be applicable in this court. The seal of the Court of Domestic Relations shall have a star of five points with the words "Court of Domestic Relations, Jefferson County, Texas," engraved thereon.

(b) During each term of the Court of Domestic Relations for Jefferson County, Texas, said court may sit at any time in Port Arthur, Texas, to try, hear and determine any civil non-jury case over which it has jurisdiction, and may hear and determine motions, arguments and such other non-

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jury matters which said court may have jurisdiction over, provided further, that nothing herein shall be construed to deprive the court of jurisdiction to try non-jury cases and hear and determine motions, arguments and such other non-jury civil matters at the county seat at Beaumont, Texas.

(c) The District Clerk of Jefferson County or his deputy shall wait upon the said court when sitting at Port Arthur, Texas, and shall be permitted to transfer all necessary books, minutes, records, and papers to Port Arthur, Texas, while the court is in session there, and likewise to transfer all necessary books, minutes, records and papers from Port Arthur, Texas, to Beaumont, Texas, at the end of each session in Port Arthur, Texas.

(d) The Sheriff of Jefferson County or his deputy shall be in attendance upon the court while sitting at Port Arthur, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the court.

(e) The official court reporter of said court shall be in attendance upon the court while sitting at Port Arthur, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the court.

(f) The Commissioners Court of Jefferson County, Texas, is hereby authorized to provide suitable quarters for said court while sitting at Port Arthur, Texas, which said quarters shall be located within the sub-court-house in Port Arthur, Jefferson County, Texas.

(g) Any Judge of any District Court of Jefferson County, Texas, may hear and determine cases, motions and arguments that are filed in the Court of Domestic Relations for Jefferson County, Texas, without the necessity of a formal transfer of the Judge to the said Court of Domestic Relations for Jefferson County, Texas. As amended Acts 1962, 57th Leg., 3rd C.S., p. 42, ch. 14, § 1.

Emergency. Effective Feb. 1, 1962.

Section 2 of the amendatory Act of 1962 provided: "All decrees, orders or judgments entered by the Court of Domestic Relations for Jefferson County, while sit-

ting at Port Arthur, Texas, in any suit, action or other proceeding over which the court had jurisdiction, are hereby validated and made of binding force and effect."

Art. 2338—15. Court of Domestic Relations for Tarrant County

Creation of court

Section 1. There is hereby created a Court of Domestic Relations in and for Tarrant County, Texas.

Qualifications of judge; juvenile board

Sec. 2. The Judge of the Court of Domestic Relations hereby established shall be at least twenty-five (25) years of age and licensed to practice law in this state, who has been a practicing attorney or a judge of a court for four (4) years and a resident of Tarrant County for two (2) years next before his election or appointment. He shall reside in Tarrant County during his term of office. He shall be paid a salary which shall be equal to the total salary paid by the County of Tarrant and State of Texas to any one judge of a District Court of Tarrant County, Texas. His salary shall be paid out of the General Fund of Tarrant County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of Tarrant County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts

of Tarrant County, the County Judge of Tarrant County, and the Judge of the Court of Domestic Relations for Tarrant County, which Juvenile Board shall be authorized to designate the Court of Domestic Relations as the Juvenile Court of Tarrant County; Judges of the District Courts and Criminal District Courts of Tarrant County shall continue to receive such compensation for all judicial and administrative services required of them including the services as members of the Juvenile Board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under General or Special Law.

Jurisdiction

Sec. 3. Said Court of Domestic Relations shall have jurisdiction within the limits of Tarrant County concurrent with the Civil District Courts sitting in said county of all cases involving adoptions, birth records, removal of disability of minority, and coverture, change of name of persons, delinquent child proceedings, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the District Courts under the juvenile and child-welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody, visitation and support of minor children involved therein, alimony pending final hearing and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody, visitation, support, or reciprocal support cases, contempt actions arising out of failure to pay child support and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the Civil District Courts of Tarrant County; and all cases in which children are alleged or charged to be dependent, neglected or delinquent children as provided by law. All cases enumerated or included above may be instituted in or transferred to said Court.

Transfer of cases and papers from district courts

Sec. 4. The District Courts of Tarrant County may transfer to said Court of Domestic Relations any and all cases, in their respective courts of which cases said Court of Domestic Relations is hereby given jurisdiction, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

Writs and process in transferred cases

Sec. 5. All writs and process issued by or out of a District Court prior to the time any case is transferred by said Court to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of record; place of sitting; seal; dockets and records; clerks

Sec. 6. The said Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat of Tarrant County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Tarrant County shall serve as the Clerk of said Court. He shall keep a fair record of all acts done and proceed-

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ings had in said Court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of said Court shall have a star of five points with the words "Court of Domestic Relations, Tarrant County, Texas" engraved thereon.

Election of judge; term of office; removal; vacancies

Sec. 7. At the next general election following the effective date of this Act there shall be elected the Judge of the Court of Domestic Relations of Tarrant County. The term of office shall be for a period of four (4) years. The first term shall commence on January 1, 1963. Thereafter, the Judge shall be elected as provided by the Constitution and Laws of the state for the election of District Judges. He shall be subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and Laws of this state for removal of District Judges. Vacancies in the office shall be filled by appointment by the Governor.

Cooperation by juvenile board; schedule of business

Sec. 8. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said Court and shall prepare a schedule setting forth the order of business for the Court of Domestic Relations. The Judge of the Court of Domestic Relations shall sit and hear all cases and other matters to be tried and determined by him at such times and in accordance with the schedule prepared by the Juvenile Board. Such schedule outlining the order of business to be followed by the Court of Domestic Relations shall be subject to change by the Juvenile Board at such times as the business of the Courts may require.

Transfer of cases to district or criminal district court

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court; said Court and the judge thereof may transfer any such cases, complaints, or other matters to any District Court or Criminal District Court of Tarrant County having jurisdiction thereof under the laws of the State of Texas, with the consent of the judge of such Court, and the judge of such District Court or Criminal District Court may try all such cases, complaints, or other matters which may be so transferred. Any judge of a District Court or Criminal District Court of Tarrant County may in his discretion preside as judge of the Juvenile Court and of the Court of Domestic Relations and hear and determine all such cases, complaints, or other matters over which the judge of such District Courts or Criminal District Courts has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the judge of the Court of Domestic Relations, and such judge of a District Court or Criminal District Court of Tarrant County, Texas, may sit in his own courtroom, the Juvenile Courtroom, the courtroom of any other district court within the county, or the Court of Domestic Relations and hear and determine any case, complaint, or matter pending in the Court of Domestic Relations, and such judge of a District Court or Criminal District Court may at his discretion transfer any such case, complaint, or other matter over which his court has jurisdiction under the laws of the State of Texas from the Court of Domestic Relations to his own court for trial and disposition. In the event of disqualification

of the judge of the Court of Domestic Relations to try a particular case or because of illness, inability, failure or refusal of said judge to hold court at any time, the Juvenile Board may select a special judge who shall hold the court and proceed with the business thereof, or said Juvenile Board may request the presiding judge of the Eighth Administrative Judicial District of Texas to assign a judge to handle the business of said court pursuant to the provisions of Article 200a of the Revised Civil Statutes of Texas, and said judge so selected by the board or assigned by the presiding judge shall be paid for his services in the same manner as provided by the Constitution and laws of this State for the payment of district judges assigned to sit for other district judges. The judge of such Court of Domestic Relations may, in any case, matter or proceeding pending in any District Court of Tarrant County, or which case, matter or proceeding said Court of Domestic Relations would have potential jurisdiction, in the courtroom of such Court of Domestic Relations, or in the Juvenile Courtroom, or in the courtroom of any District Court of Tarrant County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the judge of such District Court would have authority under law to do. As amended Acts 1963, 58th Leg., p. 152, ch. 92, § 1.

Emergency. Effective April 30, 1963.

Boards and officers; duties

Sec. 10. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Tarrant County to furnish to said Court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Court reporter; bailiff

Sec. 11. The Judge of the Court of Domestic Relations shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Tarrant County and whose salary shall be paid by the Commissioners Court of Tarrant County. A bailiff shall be designated by the Sheriff of Tarrant County to serve the Court as in other courts of the county.

Custody of children; investigations

Sec. 12. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of eighteen (18) years, and in any other cases involving the custody of any child or children, the said Court or Judge thereof, in its or his discretion, may require such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that should be made of such child or children, and to make report thereof to the Court, and if desired by the Court, to produce such evidence on any hearing in such case as may have been developed in connection with such investigation.

Writs and orders; contempt

Sec. 13. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary

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injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms of court

Sec. 14. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Second Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members. Acts 1962, 57th Leg., 3rd C.S., p. 16, ch. 6.

Emergency. Effective Jan. 30, 1962.

Criminal county court of Tarrant County,
see art. 1970—62a.

Art. 2338—16. Court of Domestic Relations for Galveston County

Creation of court

Section 1. There is hereby created a Court of Domestic Relations in and for Galveston County, Texas.

Judge; qualifications and salary; juvenile board

Sec. 2. The judge of the Court of Domestic Relations shall be at least twenty-five (25) years of age and licensed to practice law in this state, who has been a practicing attorney for four (4) years and a resident of Galveston County for two (2) years next before his election or appointment. He shall reside in Galveston County during his term of office. He shall be paid a salary of not less than Fourteen Thousand Dollars (\$14,000) per year nor more than Eighteen Thousand Dollars (\$18,000) per year. His salary shall be paid out of the General Fund of Galveston County in twelve (12) equal monthly installments. The Juvenile Board shall be authorized to designate the Court of Domestic Relations as the Juvenile Court of Galveston County; judges of the District Courts shall continue to receive such compensation for all judicial and administrative services required of them, from county funds as they are now entitled to receive or may hereafter be authorized to receive under General or Special Law. As amended Acts 1963, 58th Leg., p. 1168, ch. 454, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Jurisdiction

Sec. 3. Said Court of Domestic Relations shall have jurisdiction within the limits of Galveston County concurrent with the Civil District Courts sitting in said county of all cases involving adoptions, birth records, removal of disability of minority, and coverture, change of name of persons, delinquent child proceedings, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the District Courts under the juvenile and child-welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody, visitation and support of minor children involved therein, alimony pending final hearing and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody, visitation, support, or reciprocal support cases, contempt actions arising out of failure to pay child support and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, which are now, or may hereafter be within the jurisdiction of the Civil District Courts of Galveston County; and all cases in which children are alleged or charged to be dependent, neglected or delinquent children as provided by law. All cases enumerated or included above may be instituted in or transferred to said Court.

Transfer of cases and papers

Sec. 4. The District Courts of Galveston County and the Court of Domestic Relations of Galveston County may transfer any and all cases, in their respective courts, which the Court of Domestic Relations may have jurisdiction of herein, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases, to any of the courts in Galveston County, Texas having jurisdiction thereof. As amended Acts 1963, 58th Leg., p. 1168, ch. 454, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Writs and process in transferred cases

Sec. 5. All writs and process issued by or out of a District Court prior to the time any case is transferred by said Court to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of record; place of sitting; seal; dockets and records; clerk

Sec. 6. The said Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat of Galveston County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Galveston County shall serve as the Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of said Court shall have a star of five points with the words "Court of Domestic Relations, Galveston County, Texas," engraved thereon.

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Term of office of judge; election; removal; vacancies

Sec. 7. The term of office of the judge of said Court of Domestic Relations shall be for a period of four (4) years. Said judge shall be elected as provided by the Constitution and laws of the state for the election of judges of Courts of Domestic Relations. He shall be subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and laws of this state for removal of district judges. Vacancies in the office shall be filled by appointment by the Governor. As amended Acts 1963, 58th Leg., p. 1168, ch. 454, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Juvenile board; establishment; composition; juvenile officer; powers and duties

Sec. 8. (a) There is hereby established a County Juvenile Board in and for the County of Galveston, to be known as the Galveston County Juvenile Board, which Board shall be composed of the County Judge, the Judge of County Court No. 2, the Judges of the several District Courts in and for Galveston County, and eight (8) citizen members, four (4) to be appointed by the Commissioners Court of Galveston County; one (1) to be appointed by the Galveston City Council; and ¹ (1) to be appointed by the City Commission of Texas City; one (1) to be appointed by the City Council of Lamarque; and one (1) to be appointed by the City Council of Hitchcock. The Judge of the Domestic Relations and Juvenile Court shall serve as chairman of the Juvenile Board. Citizen members of the Board shall serve for terms of two (2) years.

(b) The members of the Galveston County Juvenile Board shall receive no compensation for their services on said Board.

(c) The Judge of the Domestic Relations and Juvenile Court of Galveston County may appoint discreet persons of good moral character to serve as Juvenile Officer and Assistant Juvenile Officers for Galveston County. The Board shall fix the salaries of and allowances for the said Juvenile Officer and Assistant Juvenile Officers and employ a clerk for said office, and the Commissioners Court shall provide the necessary funds for the payment of such salaries and expenses as may be necessary. All claims for expenses of the Juvenile Officer and Assistant Juvenile Officers shall be certified by the Chairman of the Board to the said County Commissioners Court as being necessary in the performance of the duty of such officer. The appointment of said Juvenile Officer and Assistant Juvenile Officers shall be filed in the office of the County Clerk of said county, and such officers shall take the oath to perform their duties and file such oaths in the office of the County Clerk of said county. The Judge of the Domestic Relations and Juvenile Court of Galveston County may remove the Juvenile Officer or an Assistant Juvenile Officer at any time.

(d) The said Juvenile Officer and Assistant Juvenile Officers shall have the authority, powers and duties authorized and required by Article 5142 of the Revised Civil Statutes of Texas, 1925, and any amendments thereto.

(e) The Commissioners Court of Galveston County shall furnish automobiles for the official use of said Juvenile Officer and Assistant Juvenile Officers, and provide for the expense of operating the same, as recommended by the Board.

¹ So in enrolled bill.

Co-operation by juvenile board

Sec. 9. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said Court.

Transfer of cases to district court

Sec. 10. All cases, applications, complaints and all other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court; said Court and the Judge thereof may transfer any such cases, complaints, or other matters to any District Court of Galveston County having jurisdiction thereof under the laws of the State of Texas, with the consent of the Judge of such Court, and the Judge of such District Court may try all such cases, complaints, or other matters which may be so transferred. Any Judge of a District Court of Galveston County may in his discretion preside as Judge of the Juvenile Court and of the Court of Domestic Relations and hear and determine all such cases, complaints, or other matters over which the Judge of such District Courts has jurisdiction under the laws of the State of Texas, with the same authority to act as Presiding Judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the Judge of the Court of Domestic Relations, and such Judge of a District Court of Galveston County, Texas, may sit in his own court room, the Juvenile Court Room, the court room of any other District Court within the county, or the Court of Domestic Relations and hear and determine any case, complaint, or matter pending in the Court of Domestic Relations, and such Judge of a District Court may at his discretion transfer any such case, complaint, or other matter over which his Court has jurisdiction under the laws of the State of Texas from the Court of Domestic Relations to his own court for trial and disposition. In the event of disqualification of the Judge of the Court of Domestic Relations to try a particular case or because of illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board may select a Special Judge who shall hold the court and proceed with the business thereof, or said Juvenile Board may request the Presiding Judge of their Administrative Judicial District of Texas to assign a Judge to handle the business of said Court pursuant to the provisions of Article 200a of the Revised Civil Statutes of Texas, and said Judge so selected by the Board or assigned by the Presiding Judge shall be paid for his services in the same manner as provided by the Constitution and Laws of this state for the payment of District Judges assigned to sit for other District Judges.

Boards and officers; duties

Sec. 11. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and sheriff and constables of Galveston County to furnish to said Court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Court reporter; bailiff

Sec. 12. The Judge of the Court of Domestic Relations shall have authority to appoint a court reporter, who shall receive the same compensa-

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tion as provided by law for court reporters of District Courts in Galveston County and whose salary shall be paid by the Commissioners Court of Galveston County. A bailiff shall be designated by the sheriff of Galveston County to serve the Court as in other courts of the county.

Custody of children; investigations

Sec. 13. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of eighteen (18) years, and in any other cases involving the custody of any child or children, the said Court or Judge thereof, in its or his discretion, may require such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that should be made of such child or children, and to make report thereof to the Court, and, if desired by the Court, to produce such evidence on any hearing in such case as may have been developed in connection with such investigation.

Writs and orders; contempt

Sec. 14. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms of court

Sec. 15. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 16. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the First Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and procedure

Sec. 17. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

District attorney to prosecute or defend

Sec. 18. The District Attorney of Galveston County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Board, County Welfare Board, County Welfare Office, County Health Officer or any other welfare agency is interested.

Repealer

Sec. 19. All laws and parts of laws in conflict herewith pertaining to the Juvenile Board of Galveston County, including Senate Bill No. 135, Acts of the 57th Legislature, Regular Session, 1961, be, and the same are hereby repealed.¹

¹ Article 5139LL.

Effective date

Sec. 20. The effective date of this Act shall be September 1, 1962. Acts 1962, 57th Leg., 3rd C.S., p. 171, ch. 64, §§ 1-20.

Emergency. Effective Sept. 1, 1962.

Juvenile officers, qualifications, duties, salaries and removal, see art. 5142.

County juvenile boards, see art. 5139 et seq.

Art. 2338—17. Court of Domestic Relations for Taylor County**Creation of court**

Section 1. There is hereby created a Court of Domestic Relations in and for Taylor County, Texas.

Jurisdiction

Sec. 2. (a) Said Court of Domestic Relations shall have jurisdiction of all cases involving adoptions, removal of disability of minority and coverture, change of name of persons, neglected or dependent child proceedings, and all jurisdiction, conferred on juvenile courts by Chapter 204, Acts of the Forty-eighth Legislature, as heretofore and hereafter amended and all jurisdiction, powers and authority now or hereafter placed in the district or county courts under the juvenile, child labor and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings, as well as independent actions involving child custody or support; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the district or county courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law. It shall also have jurisdiction over all criminal cases of wife, and child, desertion, contributing to the delinquency of a minor, enticing a minor from legal custody as provided in Articles 602, 534, 534a, 535 and amendments thereto of the Penal Code of this State. All cases enumerated or included above may be instituted in or transferred to said Court.

(b) Said Court of Domestic Relations shall have jurisdiction to hear contempt proceedings on, or any motion to alter, amend, or modify any judgment of a domestic relations case, (such cases that are described in Section (a) of this Act) heretofore determined by the County Court at Law of Taylor County, the 42nd Judicial District Court for Taylor County, or the 104th Judicial District Court for Taylor County.

Qualifications of judge; term of office

Sec. 3. The Judge of the said Court of Domestic Relations shall be a legally licensed attorney at law in this State. No person shall be elected or appointed Judge of said Court who has not been a practicing attorney

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of the State of Texas for at least five (5) years immediately prior to his appointment or election. The person elected such Judge shall hold the office for four (4) years, and until a successor shall have been duly elected and qualified.

Appointment of judge; term of office; subsequent elections

Sec. 4. The Commissioners Court of Taylor County shall appoint the Judge of the Taylor County Court of Domestic Relations who shall hold the office until the next General Election and until his successor shall have been duly elected and qualified. Thereafter, the Judge of the Court of Domestic Relations for Taylor County shall be elected as provided by the Constitution and laws of this State for the election of Judges for County Domestic Relations Courts.

The Commissioners Court of Taylor County shall provide suitable quarters for the holding of said Court.

Salary of judge; bond; oath

Sec. 5. The Judge of the said Court of Domestic Relations shall be paid by the Commissioners Court of Taylor County out of the General Fund of Taylor County an annual salary which shall be equal to the total salary paid to a District Judge of Taylor County. Said salary shall be paid in twelve (12) equal monthly installments. Said Judge of said Court shall not engage in the private practice of the law during his term of office. The Judge of the Court of Domestic Relations of Taylor County shall execute a bond and take an oath of office as required by law relating to County Judges.

Transfer of cases, writs and process

Sec. 6. (a) When said Court of Domestic Relations is organized and the Judge thereof shall qualify, the County Judge of Taylor County, the Judge of the County Court at Law of Taylor County, and the Judges of the 42nd Judicial District and of the 104th Judicial District may transfer to said Court of Domestic Relations all cases which then may be pending in their respective Courts in Taylor County, of which said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders entered by them and all cases pending in the County Court at Law of Taylor County concerning juvenile delinquents, on the effective date of this Act, along with all the books and records thereof, shall be transferred to the said Court of Domestic Relations.

(b) All writs and process issued by or out of a District or County Court or County Court at Law prior to the time any case is transferred by any one of said Courts to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Transfers to other courts

Sec. 7. All cases and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court, but the Judge of said Court may transfer any such cases or matters to the County or District Court having jurisdiction thereof under

the laws of this State, to be tried in such Court to which such transfer is made, with the permission and consent of the Judge thereof.

Place of holding court; dockets and minutes; clerks

Sec. 8. The said Court of Domestic Relations shall sit and hold court in Taylor County, and shall maintain all necessary dockets and minutes therein.

The Sheriff of Taylor County shall perform all duties in the Court of Domestic Relations provided by law for such officer to perform in the District and County Courts, including bailiffs to attend the Court. The District Clerk of Taylor County shall be the Clerk of the Court of Domestic Relations and shall keep a fair record of all acts done, all necessary dockets and minutes thereof, and proceedings had, in said Court, and perform generally all such duties as are now or as may be hereafter imposed upon District or County Clerks relative to District or County Courts insofar as applicable to the Court of Domestic Relations. The seal of said Court shall have a star of five points with the words "Taylor County Court of Domestic Relations," engraved thereon.

Boards and officers, duties

Sec. 9. It shall be the duty of all officers, agents and employees of the Child Welfare Department, County Welfare Office, County Health Officer, County Juvenile Officer, Sheriff and Constables within Taylor County to furnish to said Court such services in the line of their respective duties as shall be required by said Court.

Injunctions and writs; contempts

Sec. 10. The Judge of the Court of Domestic Relations herein created shall have power to issue injunctions, temporary injunctions and restraining orders and such other writs as are now or hereafter may be issued under the laws of this State by the County and District Courts when necessary in cases or matters in which said Court has jurisdiction, and also power to punish for contempt.

Terms of court

Sec. 11. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified and remain in session until the first day of the following September and its terms shall hereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Disqualification of judge; special judge; compensation

Sec. 12. In the case of disqualification of the Judge of the Court of Domestic Relations of Taylor 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 Court of Domestic Relations of Taylor County is disqualified. In the case of the selection of such special judge by agreement of the parties or their attorneys, such special judge shall draw Twenty-five Dollars (\$25) per day compensation for each day he shall actually serve, to be paid out of the General Fund of the County by the Commissioners Court.

Vacancies in office

Sec. 13. Any vacancy in the office of the Judge of the Court of Domestic Relations of Taylor County shall be filled by the Commissioners

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Court of Taylor County and when so filled, the Judge shall hold office until the next General Election and until his successor is elected and qualified.

Appeals

Sec. 14. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the 11th Supreme Judicial District as now or hereafter provided for appeals from District and County Courts, and in all criminal cases, appeals shall be to the Court of Criminal Appeals sitting in Austin, Travis County, Texas.

Practice and procedure

Sec. 15. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

County and district attorney; representation of state

Sec. 16. The County Attorney or any District Attorney of Taylor County shall represent the State in all proceedings in the Taylor County Court of Domestic Relations.

Suits involving custody of children; investigations

Sec. 17. In all suits for divorce where it appears from the petition or otherwise that the party to such has a child or children under the age of eighteen (18) years, and in any other case involving the custody of any such child or children, the said Court or Judge thereof in its or his discretion may require any such Juvenile Officer, Investigator or Child Welfare Unit to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and to make reports thereof to the Court, and if desired by the Court, to produce such evidence on any hearing in such case as may have been developed in connection with such examination or investigation.

Court reporter; interpreter; investigator

Sec. 18. The Judge of the Taylor County Court of Domestic Relations shall have authority to appoint a court reporter in such cases as may be required by law and in such other cases as he shall deem it necessary to record and preserve the testimony. Such court reporter shall be paid such salary out of the General Fund of the County as may be fixed by the Commissioners Court. The Judge shall also have the power and authority to appoint a court interpreter in such cases as may be necessary who shall be paid such fees and compensation out of the General Fund of the County, for such service as may be fixed by the Judge, and approved by the Commissioners Court. The Judge of said Court shall employ an investigator for the Taylor County Court of Domestic Relations, who shall also serve as secretary to the Judge of said Court and which said investigator shall have and is hereby invested with all of the general authority of any peace officer of Taylor County, Texas, with full power and authority to make arrests, serve any process, the same as any peace officer, and said investigator shall be furnished all necessary transportation in the discharge of the duties as such investigator. Said investigator shall be paid a salary fixed by the Commissioners Court, and said salary and such transportation costs shall be paid by the Commissioners Court of Taylor County, Texas, out of the General Fund of Taylor County, Texas.

Removal of judge

Sec. 19. The Judge of said Court of Domestic Relations shall be subject to removal from the office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for the removal of County Officers.

Repealer

Sec. 20. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict, but otherwise this Act shall be cumulative of existing laws.

Activation and operation of court

Sec. 21. The Commissioners Court of Taylor County, Texas, may immediately after the effective date of this Act, make said Taylor County Court of Domestic Relations activated and operational or as soon thereafter as is practical. Acts 1963, 58th Leg., p. 64, ch. 44.

Emergency. Effective April 4, 1963.

TITLE 44—COURTS—COMMISSIONERS

2. POWERS AND DUTIES

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| <p>Art.
2368a—9. Validation of contracts, scrip and time warrants; refunding bonds; acts and proceedings; exceptions; elections for city officials [New].</p> <p>2370c. Counties of over 900,000; county workhouses and farms [New].</p> <p>2372f—2. Motor vehicles; allowance for each member; certain counties of 140,000 to 200,000 [New].</p> | <p>Art.
2372f—3. Automobile or pickup; furnishing each commissioner; counties of 35,000 to 36,400 [New].</p> <p>2372f—4. Automobile; furnishing each commissioner; counties of 22,300 to 22,500 [New].</p> <p>2372r. Historical markers, monuments and medallions [New].</p> |
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2. POWERS AND DUTIES

Art. 2351. 2241, 1537, 1514 Certain powers specified

Airstrips, use of county equipment, machinery and employees of counties of 17,650 to 17,700 for construction and maintenance, see art. 1581d—1.

Art. 2368a—9. Validation of contracts, scrip and time warrants; refunding bonds; acts and proceedings; exceptions; elections for city officials

Section 1. In every instance since the approval by the Governor of Texas on May 15, 1961, of Chapter 126, Acts of the Fifty-seventh Legislature, Regular Session, 1961,¹ where the Commissioners Court of a county or the governing body of a city (including Home-Rule cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home-Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home-Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work and for professional or personal service rendered to the county, city or town, and each of these are hereby in all things validated, ratified, confirmed and approved and all such warrants shall be payable in accordance with their respective terms. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant or time warrant executed or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant or time warrant, the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental Acts, orders, ordinances, resolutions and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home-Rule cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to refunding bonds for the purpose of refunding scrip or time warrants issued by any county or city (including Home-Rule cities) or town and all such warrants and all refunding bonds, heretofore issued for such purpose, and each of these are hereby in all things validated, ratified, approved and confirmed. Such refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued, irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any proceedings, governmental Acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental Acts, orders, ordinances, resolutions or other instruments, or bonds, the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. If any section, subsection, paragraph, sentence, clause, phrase or word in this Act, or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity.

Sec. 4. All actions heretofore taken by the Commissioners Court of any county in ordering the holding of an election for the selection of a mayor and aldermen of a city, town or village heretofore incorporated under the General Laws of the State of Texas, and all orders of such court in canvassing the returns and declaring the results of such elections are hereby in all things ratified and confirmed, and the persons so declared or found to have been elected by the said Court as the result of such election, and their successors in office, shall be and are hereby recognized as the governing body of such city, town or village irrespective of whether such municipal corporation was originally established or incorporated under the aldermanic or commission form of government. Acts 1963, 58th Leg., p. 959, ch. 384.

¹ Article 2368a—7.

Emergency. Effective June 5, 1963.

Art. 2370c. Counties of over 900,000; county workhouses and farms

Bond issue; tax levy; election; notice; execution, approval and registration of bonds

Section 1. The Commissioners Court of any county in this State having a population in excess of nine hundred thousand (900,000) inhabitants according to the last preceding Federal Census is hereby authorized from time to time to issue the negotiable bonds of said county and levy taxes in payment thereof for the purpose of acquiring, constructing and equipping county workhouses and county farms to be used for the confinement of prisoners of the county or for the purpose of utilizing the labor of such prisoners (either or both), including the acquisition or purchase of sites therefor. Such taxes shall be from the Constitutional Permanent Improvement Fund. Such bonds shall be issued and taxes in payment thereof shall be levied and collected in accordance with the provisions of Chap-

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ter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, governing the issuance of bonds by cities, towns, and/or counties in this State, except as may be otherwise provided in this Act. Any and all bonds authorized to be issued by this Act may be submitted at the bond election in a single proposition. Notice of a bond election shall be given by publication of a notice containing a substantial copy of the election order on the same day in each of two (2) consecutive weeks in a newspaper of general circulation in the county, the first of which publications shall be at least fourteen (14) days prior to the election. No other notice of election shall be necessary. No bonds authorized by this Act (except refunding bonds) shall be issued unless more than a majority of the duly qualified resident electors of said county who own taxable property within said county and who have duly rendered the same for taxation, voting at the election, have voted in favor of the issuance of such bonds. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and such bonds may or may not contain option of prior redemption provisions as may be determined by the Commissioners Courts. Such bonds shall be executed in the manner as may be provided in the order authorizing their issuance. All such bonds (including refunding bonds), after the same have been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, shall be incontestable.

Refunding bonds

Sec. 2. The Commissioners Court of any such county shall have the right at all times to issue refunding bonds for the purpose of refunding outstanding bonds (including the refunding of refunding bonds) issued under the provisions of this Act, subject to the General Laws applicable to the issuance of refunding bonds by counties and without the necessity of an election or of any notice or of any right to referendum vote. The provisions of Section 1 hereof relating to maturities of original bonds and their execution shall apply to refunding bonds issued hereunder.

Validation of election proceedings

Sec. 3. Any and all bonds heretofore authorized for the purposes mentioned in Section 1 hereof by a majority of the duly qualified resident electors of the county who owned taxable property within such county and who had duly rendered the same for taxation, voting at an election called and held for such purpose, and the election proceedings relating to such bonds, are hereby in all things validated; and the Commissioners Court may issue any such bonds in the manner herein provided. It is expressly provided, however, that the validation provisions of this Section 3 shall not apply to litigation pending upon the effective date of this Act. Acts 1963, 58th Leg., p. 548, ch. 204.

Emergency. Effective May 21, 1963.

Bonds, general provisions and regulations, see art. 701 et seq.

County building authority act, see art. 2372o.

Counties over 900,000, bond issue for courthouse, jail and county branch office buildings, see art. 725b.

Art. 2372f—2. Motor vehicles; allowance for each member; certain counties of 140,000 to 200,000

Section 1. In any county having a population in excess of one hundred forty thousand (140,000) but not in excess of two hundred thousand (200,000) according to the last preceding or any future Federal Census, and having an assessed valuation in excess of Two Hundred Fifty Million

Dollars (\$250,000,000), the Commissioners Court is hereby authorized to furnish each member of the Commissioners Court an adequate motor vehicle, including all expenses incidental to the upkeep and operation of such motor vehicle, for use on official business.

Sec. 2. The cost of such motor vehicles, together with all expenses incidental to the upkeep and operation thereof may be paid out of county funds and each member of the Commissioners Court shall make under oath an account of his expenditures for such purposes.

Sec. 3. The provisions of this Act shall not repeal by implication or otherwise the provisions of Article 2350—o of the Revised Civil Statutes relating to motor vehicle transportation for certain counties of this state. Acts 1962, 57th Leg., 3rd C.S., p. 71, ch. 26, §§ 1-3.

Effective 90 days after Feb. 1, 1962, date of adjournment.

Allowance for travelling expenses and automobile depreciation, see art. 2350o.

Section 4 of the act of 1962 amended art. 3883i, relating to salaries of county and district officials.

Maximum and minimum salaries of county and district officials, see art. 3883i.

Art. 2372f-3. Automobile or pickup; furnishing each commissioner; counties of 35,000 to 36,400

Section 1. This Act applies to every county in this State which has a population of not less than thirty-five thousand (35,000) nor more than thirty-six thousand, four hundred (36,400), according to the last preceding Federal Census.

Sec. 2. The Commissioners Court in any county to which this Act applies may furnish each County Commissioner in such county an adequate automobile or pickup, including all expenses incidental to the upkeep and operation of such automobile or pickup, for use in official business.

Sec. 3. The cost of each automobile or pickup together with all expenses incidental to the upkeep and operation thereof may be paid out of county funds and each County Commissioner shall make an account of his expenditures for such purposes under oath. Acts 1963, 58th Leg., p. 749, ch. 283.

Effective May 30, 1963.

Allowance for traveling expenses and automobile depreciation, see art. 2350o.

Art. 2372f-4. Automobile; furnishing each commissioner; counties of 22,300 to 22,500

Section 1. This Act applies to every county within a judicial district of this State comprised of four counties, one of which counties has a population of not less than twenty-two thousand, three hundred (22,300) and not more than twenty-two thousand, five hundred (22,500).

Sec. 2. The Commissioners Court in any county to which this Act applies may furnish each County Commissioner in such county an adequate automobile, including all expenses incidental to the upkeep and operation of such automobile, for use in official business.

Sec. 3. The cost of each automobile together with all expenses incidental to the upkeep and operation thereof may be paid out of county funds

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and each County Commissioner shall make an account of his expenditures for such purposes under oath. Acts 1963, 58th Leg., p. 954, ch. 379.

Emergency. Effective June 5, 1963.

Acts 1963, 58th Leg., p. 954, ch. 379, § 3, repealed all conflicting laws and parts of laws to extent of conflict.

Allowance for travelling expenses and automobile depreciation in counties of 21,500 but less than 124,000, see art. 2350o.

Art. 2372h. Hours of work, vacations, sick leave, hospitalization, etc., in counties of 500,000 or more; flood control districts; personnel system

Maximum working hours of peace officers in counties of over 500,000 population, see art. 5167a.

Art. 2372r. Historical markers, monuments and medallions

The Commissioners Court of each county of this state, in addition to the powers already conferred on it by law, is hereby empowered to appropriate from the general fund of said counties, monies for the purpose of erecting historical markers, monuments, and medallions, and purchasing objects and collections of objects of any kind which are of historical significance to such county. Acts 1963, 58th Leg., p. 431, ch. 150, § 1.

Emergency. Effective May 14, 1963.

Appropriations for historical monuments, see Const. art. 16, § 39.

County historical survey committee, see art. 6145a.

Destruction or removal of historical structure, marker or artifact, see Vernon's Ann.P.C. art. 147b-z.

Texas state historical survey committee, see art. 6145.

TITLE 45—COURTS—JUSTICE

CHAPTER SEVEN—SMALL CLAIMS COURT [NEW]

Art. 2460a. Creation; jurisdiction; procedure

Jurisdiction

Sec. 2. The Small Claims Court shall have and exercise concurrent jurisdiction with the Justice of the Peace Court in all actions for the recovery of money by any person, association of persons, corporation or by any attorney for such parties, or other legal entity only where the amount involved, exclusive of costs, does not exceed the sum of One Hundred and Fifty Dollars (\$150), except that when the claim is for wages or salary earned, or for work or labor performed under any contract of employment, the jurisdictional amount, exclusive of costs, shall not exceed Two Hundred Dollars (\$200). Provided, however, that no action may be brought in the Small Claims Court by any assignee of such action or upon any assigned claim or by any person, firm, partnership, association or corporation engaged, either primarily or secondarily, in the business of lending money at interest, nor by any collection agency or collection agent. Provided, further, however, that nothing in this Act shall prevent the bringing of any action by a legal heir or heirs on any account or claim otherwise within the jurisdiction of these Courts. As amended Acts 1963, 58th Leg., p. 938, ch. 368, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Filing fee; process

Sec. 5. Upon the filing of the said affidavit and the payment of a Three Dollar (\$3) filing fee, the Judge shall issue process in the same manner as any other case in Justice Court, service being by citation served by an officer of the State duly authorized to serve other citations. Service of citation may be made in any manner authorized for service of citation in a district or county court or justice court.

The Three Dollar (\$3) filing fee provided for in this Section, the Three Dollar (\$3) jury fee provided for in Section 11 of this Act and the Two Dollar (\$2) citation fee provided in Section 5a shall constitute the only fees or costs authorized to be charged in the Small Claims Court; provided, however, such fees shall constitute only the Court costs accruing up to and including entry of judgment in the Small Claims Court and do not affect any fee or Court cost accruing in any Court after the entry of said judgment and do not apply to any proceeding or execution after entry of judgment in said Court. As amended Acts 1955, 54th Leg., p. 571, ch. 187, § 1; Acts 1963, 58th Leg., p. 938, ch. 368, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Fee for service of citation

Sec. 5a. A fee of Two Dollars (\$2) shall be charged for the service of citation provided for in Section 5 and shall be accountable as a fee of office by the officer serving citation. Added Acts 1955, 54th Leg., p. 571, ch. 187, § 2, as amended Acts 1963, 58th Leg., p. 938, ch. 368, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 46—CREDIT ORGANIZATIONS

Art.
2484c. Slander or libel of credit unions;
penalty [New].

1. RURAL CREDIT UNIONS

Art. 2461. Credit union defined

Exemption of persons doing business as usual credit union from provisions of the Texas Regulatory Loan Act, see art. 6165b, § 6.

Art. 2462. Loans and investments

Deposits; borrowing money

Section 1. A credit union may receive the savings of its members in payment for shares or as deposits. It may borrow money in any amount not to exceed fifty per cent (50%) of its capital and surplus, as that term is herein defined.

Lending money to members

Sec. 2. A credit union may lend money to its members within the limits and subject to the restrictions provided by law.

Classification of loans

Sec. 3. Loans made by credit unions are hereby placed in a class separate and distinct from all other loans.

Interest defined

Sec. 4. "Interest" as pertaining to all loans made by credit unions is hereby defined as the compensation allowed by law or fixed by the parties to a contract or collected for the use or forbearance or detention of money.

Maximum interest rate on loans

Sec. 5. The maximum rate of interest on loans made by credit unions shall be one per cent (1%) per month on the unpaid balance.

Other charges on loans

Sec. 6. On loans made by credit unions, no credit union shall charge the borrower anything of value in connection or association with a loan, other than repayment of the unpaid principal balance and interest.

Investments in federal, state and municipal obligations

Sec. 7. In the direction of the board of directors, a credit union may invest its surplus and accumulated funds in the obligations of the United States of America, of the State of Texas, or any political subdivision thereof, provided such subdivision has not, within the preceding five (5) years defaulted in the payment of any principal or interest on the obligations or class of obligations in which such investment is made.

Investments in shares of savings and loan associations; loans to other credit unions

Sec. 8. A credit union may also invest such surplus and accumulated funds in shares of stock, insured by the Federal Savings and Loan Insur-

ance Corporation, which are issued by a building and loan association or savings and loan association, domiciled in the state; and it may make loans to other state and federal credit unions domiciled in this state, provided that such loans to other credit unions shall never aggregate more than twenty-five per cent (25%) of the capital and surplus of such credit union making such loans. As amended Acts 1963, 58th Leg., p. 577, ch. 209, § 1.

Art. 2465. Supervision; examination; examiners; fees; expenses; independent examinations; and surety bonds

Books and records; examination and examiners

Section 1. Such credit union shall maintain such books and records as the Banking Commissioner may deem necessary. The Banking Commissioner shall cause each credit union to be examined at least once yearly, such examination to be made by:

a. One or more credit union examiners who shall be appointed by the Banking Commissioner and who shall receive, in addition to the salary fixed and determined by the Finance Commission, all necessary traveling expenses, a sworn itemized account of which shall be rendered monthly by each examiner and approved by the Commissioner; or

b. The Deputy Banking Commissioner, departmental examiner, any bank examiner, assistant bank examiner, loan and brokerage supervisor, loan and brokerage examiner or credit union supervisor.

Examination fee

Sec. 2. Each credit union examined shall pay to the Banking Commissioner an examination fee fixed by the Banking Commissioner not to exceed Seventy-Five Dollars (\$75.00) per day per person engaged in each examination or a total fee of Ten Dollars (\$10.00) per each One Thousand Dollars (\$1,000.00) of assets or fraction thereof as reflected by the examination, whichever is lower, with a minimum of Ten Dollars (\$10.00).

Supervision fee

Sec. 3. Not later than January 31 of each calendar year, each credit union with assets of Fifty Thousand Dollars (\$50,000.00) or more shall pay to the Banking Commissioner, for the preceding calendar year, a supervision fee in accordance with the graduated scale indicated below, based upon its assets as of December 31 of each preceding year.

TOTAL ASSETS	SUPERVISION FEE
\$50,000.00 to \$100,000.00	\$ 15.00
\$100,000.00 to \$500,000.00	\$ 25.00
\$500,000.00 to \$1,000,000.00	\$ 50.00
\$1,000,000.00 to \$5,000,000.00	\$100.00
\$5,000,000.00 to \$10,000,000.00	\$200.00
\$10,000,000.00 to \$15,000,000.00	\$400.00
\$15,000,000.00 and over	\$500.00

Retention of fees, penalties or revenues

Sec. 4. All fees, penalties or revenues collected by the Banking Commissioner shall be retained by the Department of Banking and shall be expended only for the expense of said Department.

Employment of public accountant

Sec. 5. The Banking Commissioner may in his discretion require any credit union to employ at its expense a certified public accountant or a public accountant licensed by the State of Texas, subject to the approval of the Commissioner, to conduct an independent examination of the books, records and affairs of the credit union.

Surety bonds; form and amount

Sec. 6. The Banking Commissioner is authorized, empowered, and directed to require that every person appointed or elected by any credit union to any position requiring the receipt, payment, or custody of money or other personal property owned by a credit union, or in its custody or control as collateral or otherwise, give bond in a corporate surety company holding a license or permit to do business in the State of Texas in accordance with the Insurance Code of Texas. Any such bond or bonds shall be in a form approved by the Banking Commissioner with a view to providing surety coverage to the credit union with reference to loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction, or misapplication on the part of the person, directly or through connivance with others, and such other surety coverages as the Banking Commissioner may determine to be reasonably appropriate. Any such bond or bonds shall be in such an amount in relation to the money or other personal property involved or in relation to the assets of the credit union as the Banking Commissioner may from time to time prescribe by regulation for the purpose of requiring reasonable coverage. In lieu of individual bonds the Banking Commissioner may approve the use of a form of blanket bond which covers all of the officers and employees of a credit union whose duties include the receipt, payment or custody of money or other personal property for or in behalf of the credit union. The Banking Commissioner may also approve the use of a form of excess coverage bond whereby a credit union may obtain an amount of coverage in excess of the basic surety coverage. The Banking Commissioner may prescribe regulations to fulfill the requirements of this paragraph. As amended Acts 1951, 52nd Leg., p. 233, ch. 139, § 5; Acts 1953, 53rd Leg., p. 477, ch. 166, § 1; Acts 1959, 56th Leg., p. 808, ch. 365, § 1; Acts 1961, 57th Leg., p. 70, ch. 42, § 1; Acts 1963, 58th Leg., p. 577, ch. 209, § 2.

Art. 2466. By-laws

The bylaws of the credit union shall prescribe:

1. The name of the corporation.
2. The purpose for which it is formed.
3. The conditions of association, residence or occupation which qualify persons for membership.
4. The par value of shares of capital stock.
5. The conditions on which shares may be paid in, transferred and withdrawn.
6. The conditions on which deposits may be received and withdrawn.
7. The method of receipting for money paid on account of shares or deposited.
8. The number of directors and number of members of the credit committee.
9. The duties of the several officers.

10. The fines, if any, which may be charged for failure to meet obligations of the association punctually.

11. The date of the annual meeting of members.

12. The manner in which the member shall be notified of meetings.

13. The number of members which shall be a quorum at meetings.

14. Such other regulations as may seem necessary. As amended Acts 1963, 58th Leg., p. 577, ch. 209, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2469. Board of directors; officers**Election of Board of Directors and Supervisory Committee**

Section 1. At the annual meeting the members shall elect a board of directors of not less than five (5) members and a supervisory committee of three (3) members. No member of the board of directors or credit committee shall be a member of the supervisory committee.

Election of officers

Sec. 2. At their first meeting the board of directors shall elect from their number a president, vice-president, secretary and a treasurer, who shall be the executive officers of the association.

Terms of officers and directors

Sec. 3. All members of the board of directors as well as the officers they elect, shall be sworn, and shall hold their several offices until others are elected and qualified in their stead.

Record of qualifications

Sec. 4. A record of every such qualification shall be filed and preserved with the records of the association. As amended Acts 1963, 58th Leg., p. 577, ch. 209, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2470. Duties and responsibilities of directors**General**

Section 1. The board of directors shall have the general management of the affairs, funds and records of the association, and shall meet as often as may be necessary.

Special

Sec. 2. It shall be their special duty:

a. To act upon all applications for membership either directly or through a membership officer, appointed by the board from among the members of the credit unions, who may be authorized to approve applications for membership under such conditions as the board may prescribe. The membership officer, if appointed, shall submit to the board at least once each month a list of approved or pending applications for membership received since the previous board meeting, together with such other related information as the bylaws or the board may require. No person holding the office of treasurer, assistant treasurer or loan officer shall be eligible for the office of membership officer.

b. To act upon the expulsion of members.

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

c. To fix the amount of surety bond which shall be required of each officer having custody of the funds, in compliance with such regulations as may be prescribed by the Banking Commissioner.

d. To determine the rate of interest on loans.

e. To fill vacancies in the board of directors or in the credit committee of the association until the election and qualification of officers to fill said vacancies.

f. To determine the maximum number of shares which may be held by any one (1) member.

g. To determine the maximum amount which may be lent to any one (1) member.

h. To declare dividends or to make recommendations to the meetings of the members relative to the amount of dividends to be declared.

i. To make recommendations to meetings of the members relative to the amount of entrance fee, amendments to the bylaws and any other matters which in their opinion the members should decide. As amended Acts 1961, 57th Leg., p. 70, ch. 42, § 2; Acts 1963, 58th Leg., p. 577, ch. 209, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2480. Audit

Immediately before a meeting of the directors called to declare a dividend or to recommend the declaration of a dividend, the supervisory committee shall make a thorough audit of the receipts, disbursements, income, assets and liabilities of the association for the fiscal year, and shall make a full report thereon to the directors. Said report shall be read at the annual meeting and shall be filed and preserved with the records of the association. As amended Acts 1963, 58th Leg., p. 577, ch. 209, § 5.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2482. Dividends

Section 1. A dividend may be paid from income which has been actually collected from the time the credit union began business to the close of the fiscal year next preceding such payment, after deduction of all expenses and the statutory guaranty fund to the close of said fiscal year.

Sec. 2. Before any such dividend may be paid, it shall first be declared by the board of directors, if the bylaws so provide, or at the annual meeting.

Sec. 3. Such dividend shall be paid on all fully paid shares outstanding at the close of the fiscal year, but shares which become fully paid during the year shall be entitled only to a proportional part of said dividend calculated from the first day of the month following such payment in full, except that dividend credit for a month may be accrued on shares which are or become fully paid up during the first ten (10) days of that month.

Sec. 4. Dividends due to a member shall be paid to him in cash or credited to the account of partly paid shares for which he has subscribed. Dividends shall not exceed six per cent (6%) per annum. Formerly art. 2481. Reassigned and codified as art. 2482 and amended Acts 1957,

55th Leg., p. 679, ch. 285, § 2; Acts 1961, 57th Leg., p. 70, ch. 42, § 4; Acts 1963, 58th Leg., p. 577, ch. 209, § 6.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2483. Dissolution, Conversion and Liquidation

Section 1. At any meeting specially called to consider the subject, the members upon the unanimous recommendation of the board of directors may vote to dissolve the association by an affirmative vote of at least two-thirds ($\frac{2}{3}$) of the members present at such meeting. A committee of three (3) shall thereupon be elected to liquidate the assets of the association; and each share of the capital stock, according to the amount paid in thereon, shall be entitled to its proportion of the proceeds after all debts of the association have been paid. In case of liquidation the Department of Banking shall be immediately notified and the liquidation proceedings shall be under the supervision of the Banking Commissioner.

Sec. 2. Any credit union now organized or that may be hereafter organized under the laws of the State of Texas may convert to a federal credit union by reorganizing under the provisions of the Federal Credit Union Act;¹ provided such conversion has been affirmatively approved by a vote of at least two-thirds ($\frac{2}{3}$) of the members of such credit union present and voting at a special meeting called by the directors to consider the subject of conversion; and provided further, that the state credit union shall not cease to be a state credit union, subject to the supervision of the Banking Commissioner until (1) the Commissioner has been given written notice of the intention to convert for at least thirty (30) days; and (2) the credit union has filed with the Commissioner a transcript of the conversion proceedings sworn to by a majority of the qualified directors of the credit union; and (3) such credit union has received a charter to do business as a federal credit union.

Sec. 3. Any federal credit union chartered and operating under the Federal Credit Union Act, otherwise eligible to become a state credit union, may convert into a state credit union in accordance with federal laws, rules and regulations, and subject to examination and approval by the Banking Commissioner of the State of Texas.

Sec. 4. (A) The Banking Commissioner may prescribe rules and regulations for the merger, consolidation and dissolution of credit unions.

(B) (1) Whenever the Banking Commissioner, through examination finds that the interests of depositors and creditors of a state credit union are seriously jeopardized through its insolvency or imminent insolvency and that it is to the best interest of such depositors and creditors that the credit union be closed and its assets liquidated, he may close and liquidate the credit union, unless its board of directors close the credit union and place it in his hands for liquidation. Further, if the Banking Commissioner, through examination, finds that the capital of a state credit union is seriously impaired, or that it is conducting its affairs in an unsafe, unauthorized or unlawful manner, or that it refuses to submit to examination, or is hindering examination, he shall call together the directors of such credit union and lay before them the facts and require such credit union to make good the matter or matters complained of. If the board of directors of such credit union fails or refuses to file with the Banking Commissioner, within ninety (90) days from the date of the Banking Commissioner's official notice, satisfactory evidence that the matter or matters complained of have been cured to the satisfaction of the Banking

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

Commissioner, then in such event the Banking Commissioner shall certify such facts to the State Banking Board, whereupon the State Banking Board shall notify such directors of a hearing to be held in Austin, Texas, not less than five (5) nor more than ten (10) days from the date such notice is mailed. Said directors may appear at such hearing and be heard and after said hearing said State Banking Board may order such credit union closed and its affairs liquidated, or said State Banking Board may enter such other order as said State Banking Board may deem appropriate.

(2) At any time within five (5) days after the Banking Commissioner has closed any credit union under the provisions of this Article such credit union acting through its directors, may sue in the district court of the credit union's domicile to enjoin the Commissioner from liquidating the credit union, and the court, or the judge thereof if in vacation, may, without notice or hearing, restrain the Commissioner from liquidating the assets of such credit union pending hearing on the merits, and shall, in that event, instruct the Commissioner to hold the assets of such credit union in his possession pending final disposition of such suit. The Commissioner shall thereupon refrain from liquidating such assets, provided, however, the Commissioner may with approval of the district judge, take such action as may be necessary or proper to prevent loss or depreciation in the value of the assets. The court shall, as soon as possible, hear the suit upon its merits and shall enter a judgment either enjoining the Commissioner from liquidating the assets of the credit union, or refusing to issue such an injunction. Appeal shall lie from such judgment as in other civil cases, but the Commissioner, irrespective of the character of judgment entered by the trial court or any supersedeas bond filed, shall retain possession of the assets of such credit union pending final disposition on appeal.

(3) The Banking Commissioner, through such persons as he shall designate, may examine any credit union in voluntary liquidation and, upon his findings that such voluntary liquidation is not being conducted in an orderly manner or to the best interest of its creditors and members, may terminate such voluntary liquidation and place such credit union in involuntary liquidation and appoint a liquidating agent therefor.

(4) Liquidating agents shall have power and authority, subject to the control and supervision of the Banking Commissioner and under such rules and regulations as the Commissioner may prescribe:

(a) to receive and take possession of the books, records, assets and property of every description of the credit union in liquidation, to sell, enforce collection of, and liquidate all such assets and property, to compound all bad or doubtful debts, and to sue in his own name or in the name of the credit union in liquidation, and defend such actions as may be brought against him as liquidating agent or against the credit union;

(b) to receive, examine, and pass upon all claims against the credit union in liquidation, including claims of members on shares;

(c) to make distribution and payment to creditors and members as their interest may appear; and

(d) to execute such documents and papers and to do such other acts and things which he may deem necessary or desirable to discharge his duties hereunder.

(5) Subject to the control and supervision of the Commissioner and under such rules and regulations as the Commissioner may prescribe, the liquidating agent of a credit union in involuntary liquidation shall:

(a) cause notice to be given to creditors and members to present their claims and make legal proof thereof, which notice shall be published once a week in each of three (3) successive weeks in a newspaper of general circulation in each county in which the credit union in liquidation maintained an office or branch for the transaction of business on the date it ceased unrestricted operations; except that whenever the aggregate book value of the assets and property of the credit union in involuntary liquidation is less than One Thousand Dollars (\$1,000.00), unless the Commissioner shall find that its books and records do not contain a true and accurate record of its liabilities, he shall declare the credit union in liquidation to be a "no publication" liquidation, and publication notice to creditors and members shall not be required in such case;

(b) from time to time make a ratable dividend on all such claims as may have been proved to his satisfaction or adjusted in a court of competent jurisdiction and, after the assets of such credit union have been liquidated, make further dividends on all claims previously proved or adjusted, and he may accept in lieu of a formal proof of claim on behalf of any creditor or member the statement of any amount due to such creditor as shown on the books and records of the credit union; but all claims not filed before payment of the final dividend shall be barred and claims rejected or disallowed by the liquidating agent shall be likewise barred unless suit be instituted thereon within three (3) months after notice of rejection or disallowance; and

(c) In a "no publication" liquidation, determine from all sources available to him, and within the limits of available funds of the credit union, the amounts due to creditors and members, and after sixty (60) days shall have elapsed from the date of his appointment distribute the funds of the credit union to creditors and members ratably and as their interest may appear.

(6) Upon certification by the liquidating agent in the case of an involuntary liquidation, and upon such proof as shall be satisfactory to the Commissioner in the case of a voluntary liquidation, that distribution has been made and that liquidation has been completed, as provided herein, the Commissioner shall cancel the charter of such credit union; but the corporate existence of the credit union shall continue for a period of three (3) years from the date of such cancellation of its charter, during which period the liquidating agent, or his duly appointed successor, or such persons as the Commissioner shall designate, may act on behalf of the credit union for the purpose of paying, satisfying, and discharging any existing liabilities or obligations, collecting and distributing its assets, and doing all other acts required to adjust and wind up its business and affairs, and it may sue and be sued in its corporate name.

(7) The liquidating agent, in his individual capacity, or for his personal benefit, shall not acquire any of the assets of a credit union in liquidation, shall not purchase any loans and, except for the compensation he shall receive as set forth in his contract of employment as liquidating agent, he shall not obtain from his activity as liquidating agent any compensation or profit for himself or any member of his family or any person associated with him in any business enterprise except the credit union involved. Any person who shall participate in a violation of this provision shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) and not less than One Hundred Dollars (\$100.00) or by confinement in the county jail for not more than six (6) months, or by both such fine and

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

jail sentence. As amended Acts 1953, 53rd Leg., p. 477, ch. 166, § 3; Acts 1963, 58th Leg., p. 577, ch. 209, § 7.

¹ 12 U.S.C.A. § 1751 et seq.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2484a. "Capital and surplus," defined

The term "capital and surplus" as used in this Act shall mean the aggregate of the paid-up shares of the members, plus accumulated undivided earnings of the credit union, less any and all outstanding obligations and liabilities of the credit union other than borrowings. As amended Acts 1963, 58th Leg., p. 577, ch. 209, § 8.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2484b. Advisory Commission

Creation; membership; powers and duties

Sec. 1. For the purpose of assisting in the organization and development of credit unions and to advise the Banking Commissioner in the performance of his duties under this title, there shall be an advisory commission consisting of five (5) members which shall have such powers and perform such duties as are prescribed by law.

Appointment of members

Sec. 2. Members of the advisory commission shall be appointed by the Governor from a list submitted by credit unions operating in this state.

Experience of members

Sec. 3. All members of the advisory commission shall have at least five (5) years experience in the operation of a credit union.

Terms of members

Sec. 4. Members of the advisory commission shall serve for terms of three (3) years, each term so arranged that no three (3) terms expire during the same year. Vacancies shall be filled in the manner of original appointments by the Governor.

Meetings

Sec. 5. The advisory commission shall meet at least twice annually. Special meetings may be called either by the chairman of the advisory commission or the Banking Commissioner.

Reimbursement for expenses

Sec. 6. Each member of the advisory commission shall be reimbursed for all expenses incidental to travel, board and lodging incurred by him in connection with the performance of his official duties at any regular or special meeting of the commission, but no salary shall be paid to the members of the advisory commission.

Chairman; election

Sec. 7. The chairman of the advisory commission shall be elected annually by the members thereof.

Advising banking commissioner

Sec. 8. The Banking Commissioner shall confer with the said advisory commission from time to time relative to policies and problems affect-

ing credit unions, and advisory commission shall advise with the Banking Commissioner in improving the condition and service of credit unions. As amended Acts 1963, 58th Leg., p. 577, ch. 209, § 9.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2484c. Slander or libel of credit unions; penalty

Any person who shall knowingly make, utter, circulate, or transmit to another or others, any statement untrue in fact, derogatory to the financial condition of any credit union in the state, with intent to injure any such credit union; or who shall counsel, aid, procure, or induce another to originate, make, utter, transmit, or circulate any such statement or rumor, with like intent, shall be guilty of an offense and upon conviction shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or confined in the state penitentiary not more than five (5) years, or both. Acts 1963, 58th Leg., p. 577, ch. 209, § 10.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 47—DEPOSITORIES**CHAPTER ONE—STATE DEPOSITORIES****Art. 2525. 2417 Depository Board**

The State Treasurer, as secretary, together with one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years and the Banking Commissioner, shall constitute the State Depository Board. Said Board shall have the right and the power to make and enforce such rules and regulations governing the establishment and conduct of State Depositories and the handling of funds therein as the public interest may require, not inconsistent with the provisions of the laws governing such depositories, which rules and regulations shall be in writing and entered upon the minutes of the Board. Said Board shall have the power to determine and designate the amount of state funds deposited by them in State Depositories that shall be "demand deposits" and what amount shall be "time deposits," and may contract with said depositories in regard to the payment of interest on "time or demand deposits" not to exceed such rate as may be lawful under any Act of Congress and such rules and regulations as may be promulgated by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation. The term "demand deposits," as used herein, shall mean any deposit which is payable on demand, and the term "time deposits," as used herein, shall mean any deposit with reference to which there is in force a contract that neither the whole nor any part of such deposit may be withdrawn by check or otherwise prior to the expiration of the period of notice which must be given in writing in advance of withdrawals. Whenever the word "treasurer" is used in the statutes it shall mean the State Treasurer, and the word "Board" shall mean the State Depository Board. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 7.

Effective 90 days after May 24, 1963, date of adjournment.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

TITLE 49—EDUCATION—PUBLIC

Chap.

3A. Pan American College [New]

Art.

2619a

CHAPTER ONE—UNIVERSITY OF TEXAS

Art.

2603f—2. University of Texas Graduate
School of Biomedical Sciences
at Houston [New].

Art.

2606c—1. Change of name to The Univer-
sity of Texas South Texas
Medical School [New].

State institutions of higher learning operating atomic energy reactors, liability insurance, see art. 4590g.

Art. 2603f—2. University of Texas Graduate School of Biomedical Sciences at Houston

Establishment; appointment of dean

Section 1. There is hereby established a graduate school of biomedical sciences in Houston, Harris County, Texas, to be known as The University of Texas Graduate School of Biomedical Sciences at Houston, and to be operated by the Board of Regents of The University of Texas as a component unit of The University of Texas system. The Graduate School of Biomedical Sciences at Houston shall be under the direction of a dean having an M.D. degree or Ph.D. degree in one of the Biomedical Sciences who shall be appointed by the Board of Regents of The University of Texas and who shall be responsible through the Chancellor or other executive officer of the Board to the Board of Regents of The University of Texas.

Courses; conduct of graduate and postdoctoral programs; degree programs

Sec. 2. The Board of Regents of The University of Texas shall have the authority to prescribe courses and conduct graduate and postdoctoral programs at the master's and doctoral levels in the sciences and other academic areas directly related to medical education and research, but said Board of Regents shall not operate this institution as a general academic graduate school. The degree programs to be offered by The University of Texas Graduate School of Biomedical Sciences at Houston shall be approved by the Texas Commission on Higher Education. All degrees shall be awarded by The University of Texas, Austin, Texas. The Board of Regents is hereby authorized to make such other rules and regulations necessary for the operation, control and management of the new University of Texas Graduate School of Biomedical Sciences at Houston as may be necessary for the operation of said Graduate School.

Grants, gifts and donations

Sec. 3. The Board of Regents of The University of Texas is authorized to accept and administer grants, gifts of property, money, and donations from the Federal Government, any foundation, trust fund, corporation or individual in aid of the establishment and the administration of the new Graduate School of Biomedical Sciences at Houston.

Research and graduate instruction; joint appointments

Sec. 4. The Board of Regents is authorized to expend funds appropriated by the Legislature to the Graduate School of Biomedical Sciences

at Houston, and grant, gift and contract funds of the School, in support of research and graduate instruction, within approved areas and programs, to be carried out either in its own facilities or in the facilities of other component units of The University of Texas in Houston. The Board is specifically authorized to make joint appointments in The University of Texas Graduate School of Biomedical Sciences at Houston and in one or more of the other component units of The University of Texas, the salary of any such person who is receiving a joint appointment to be apportioned to the different units on the basis of services rendered.

Affiliation with science programs with Main University

Sec. 5. The Graduate School of Biomedical Sciences at Houston shall maintain the closest possible affiliation with the science programs at the Main University in Austin and with the other medical units of The University of Texas. It shall cooperate with other institutions, private and public, in furtherance of research in the biomedical sciences and related fields.

Suspension of operation of University of Texas Postgraduate School of Medicine at Houston

Sec. 6. Operation of The University of Texas Postgraduate School of Medicine at Houston is hereby suspended and the Board of Regents of The University of Texas is hereby authorized to establish as a part of the Graduate School of Biomedical Sciences at Houston a separate division of continuing education for physicians.

Appropriations

Sec. 7. All appropriations heretofore made and now effective and any appropriations hereafter made by the Legislature for the use and benefit of The University of Texas Postgraduate School of Medicine at Houston shall be available for the use and benefit of The University of Texas Graduate School of Biomedical Sciences at Houston.

Contracts

Sec. 8. All contracts heretofore entered into on behalf of The University of Texas Postgraduate School of Medicine at Houston are hereby ratified, confirmed, and validated for and on behalf of The University of Texas Graduate School of Biomedical Sciences at Houston. Acts 1963, 58th Leg., p. 1191, ch. 475.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2606c. South Texas Medical School

Change of name to The University of Texas South Texas Medical School, see art. 2606c—1, post.

Art. 2606c—1. Change of name to The University of Texas South Texas Medical School

Section 1. The name of The South Texas Medical School created by Chapter 129, page 219, Acts, Fifty-sixth Legislature, 1959, Regular Session (Article 2606c, Vernon's Civil Statutes of Texas), is hereby changed to "The University of Texas South Texas Medical School."

Sec. 2. All laws heretofore or hereafter enacted by the Legislature applicable or relating to The South Texas Medical School shall be applicable and relate to "The University of Texas South Texas Medical School."

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

Sec. 3. All appropriations heretofore made and now effective and all appropriations hereafter made by the Legislature for the use and benefit of The South Texas Medical School shall be available for the use and benefit of "The University of Texas South Texas Medical School."

Sec. 4. All contracts, bonds, notes, or other debentures heretofore issued are hereby ratified, confirmed, and validated for and on behalf of "The University of Texas South Texas Medical School." Acts 1963, 58th Leg., p. 42, ch. 28.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER TWO—TEXAS A & M UNIVERSITY

Art.

2607a. Change of name to Texas A and M University [New].

Change of name of Agricultural and Mechanical College of Texas to Texas A & M University, see art. 2607a.

Art. 2607a. Change of name to Texas A & M University

Section 1. The Agricultural and Mechanical College of Texas, as it is now known, shall be known hereafter as and shall operate under the name of "Texas A & M University."

Sec. 2. The Texas Agricultural and Mechanical College System, as it is now known, shall be known hereafter as and shall operate under the name of "The Texas A & M University System."

Sec. 3. Wherever the names "Agricultural and Mechanical College of Texas" and "Texas Agricultural and Mechanical College System" appear in other Statutes, the names "Texas A & M University" and "The Texas A & M University System" shall not affect any previous authorization and obligation thereunder and such new names shall be substituted. Acts 1963, 58th Leg., p. 467, ch. 166.

Effective 90 days after May 24, 1963, date of adjournment.

to "Texas A & M University"; changing the name of the Texas Agricultural and Mechanical College System to "The Texas A & M University System"; and declaring an emergency. Acts 1963, 58th Leg., p. 467, ch. 166.

Title of Act:

An Act changing the name of the Agricultural and Mechanical College of Texas

Art. 2613a—2. Acceptance of donations for forestry purposes

Control of forest pests, see art. 165—9.

Art. 2613a—3. Lease of lands for oil, gas or other mineral development authorized

Change of name of Agricultural and Mechanical College of Texas to Texas A and M University, see art. 2607a.

Art. 2613a—7. Leases and easements; right-of-ways for electric and pipe lines, irrigation canals, etc.

Change of name of Agricultural and Mechanical College of Texas to Texas A and M University, see art. 2607a.

Art. 2613a—8. Purchase of land for forest tree seedling nursery; reforestation program

Change of name of Agricultural and Mechanical College of Texas to Texas A and M University, see art. 2607a.

Control of forest pests, see art. 165—9.

Art. 2613b—1. Texas Forest Service employees and others authorized to enter privately owned lands

Control of forest pests, see art. 165—9.

Art. 2615f. Student fee for operating, maintaining and improving Memorial Student Center; election

Change of name of Agricultural and Mechanical College of Texas to Texas A and M University, see art. 2607a.

CHAPTER TWO A—UNIVERSITY OF HOUSTON [NEW]

Art. 2615g. University of Houston

Tuition or registration fees

Sec. 7a. The Board of Regents shall cause to be collected from students registering in the University tuition or registration fees at rates set in Section 1 of Chapter 196, Acts of the Forty-third Legislature, Regular Session, 1933, as such Act was last amended by Chapter 436, Acts of the Fifty-seventh Legislature, Regular Session, 1961,¹ and the provisions of that Act as amended in 1961, or as subsequently amended, shall apply to the University of Houston unless in conflict with this Act. As amended Acts 1963, 58th Leg., p. 854, ch. 326, § 1.

¹ Article 2654c.

Effective 90 days after May 24, 1963, date of adjournment.

Control and lease of lands for oil, gas and other mineral developments

Sec. 10. The Board of Regents of the University of Houston is hereby authorized and empowered to lease for oil, gas, sulphur, ore and other mineral development all lands under its exclusive control or any part thereof now controlled or owned or that may be hereafter acquired for the use of the University of Houston. Said Board of Regents is authorized and empowered to make and enter into pooling agreements, division orders, or other contracts necessary in the management and development of its said lands. All leases made or sold hereunder and all pooling agreements, division orders or other contracts entered into hereunder shall be made, sold or entered into on such terms as the Board deems in the best interest of the University of Houston. Provided, however, that no lease shall be sold for less than the royalty and rental terms demanded at that time by the General Land Office in the sale of oil, gas and other mineral leases of the public lands of the State of Texas. All moneys received under and by virtue of said leases or other contracts in the management and development of its said lands except such moneys as may, from time to time, be encumbered or pledged to the payment of revenue bonds or notes under the provisions of Section 11 of Chapter 370, Acts of the Fifty-seventh Legislature of Texas, Regular Session, 1961, as now or hereafter amended (compiled as Article 2615g, Vernon's Texas Civil Statutes, as now or hereafter amended), shall be deposited to the credit of a Special Fund created

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

by said Board in such depository as may be designated by such Board, and moneys deposited in such Special Fund 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. Moneys so deposited may be used or expended by the said Board for administration of said University, payment of principal and interest on any revenue bonds or notes issued by said Board, and any other use or purpose which in the judgment of said Board may be for the good of said University. As amended Acts 1963, 58th Leg., p. 854, ch. 326, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Eminent domain

Sec. 10a. The Board of Regents is hereby vested with the power of eminent domain to acquire for the use of the University of Houston such lands as may be necessary and proper for carrying out its purposes as a State-owned and operated institution of higher education, provided however, the power of eminent domain granted herein shall be restricted to the boundaries of Harris County and any County whose boundaries are contiguous to Harris County. Said Board of Regents shall not be required to deposit a bond or the amount equal to the award of the Commissioners as provided in Section 2 of Article 3268, Revised Civil Statutes of Texas, 1925, as amended. Added Acts 1963, 58th Leg., p. 854, ch. 326, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Borrowing funds for construction and equipment of buildings, assessing and pledging fees

Sec. 11. The Board of Regents of the University of Houston is hereby authorized and empowered without cost to the State of Texas to construct or otherwise acquire, improve, enlarge, repair, and equip (including the acquisition of necessary sites), through funds or loans obtained from the United States of America, or any other source, public or private, and accept title thereto, subject to such conditions and limitations as may be prescribed by said Board, including, but not limited to, classroom buildings, dormitories, kitchens and dining halls, hospitals, libraries, student activity buildings, gymnasias, athletic buildings and stadia, and such other buildings and facilities as may be needed for the good of the University of Houston and the moral welfare and social conduct of its students, when the total cost, type and plans and specifications of such construction, acquisition, improvements, enlargements, repairs, and equipment have been approved by the Board.

Provided further, that the Board of Regents is authorized, and shall have the duty, to fix fees and charges against the students for the use of said buildings and facilities so long as any loans issued or incurred hereunder remain outstanding, and to pledge the revenues from such fees and charges for the payment of the interest on and principal of said loans, including the establishment and maintenance of reserves as may be provided in the proceedings authorizing such loans; and the Board may also pledge the unused or unpledged revenues from other revenue-producing buildings, structures, facilities and properties (including, but without limiting the generality of the foregoing, revenues and income derived from ownership of interests in oil, gas, and other minerals) to the payment of loans issued or incurred hereunder.

The loans obtained under the provisions of this Section may be evidenced by negotiable revenue bonds or notes of the Board of Regents,

maturing serially or otherwise in not to exceed forty (40) years from their date or dates, which bonds or notes shall be sold at not less than their par value plus accrued interest from date to delivery. All such revenue bonds and notes and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination, and if he finds that they have been issued in accordance with the Constitution of the State of Texas and this Section and that they will be binding and special obligations of the Board of Regents, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of Texas; and after such approval and registration, they shall be incontestable.

The Board of Regents may issue negotiable revenue refunding bonds or notes to refund or refinance any outstanding revenue bonds, notes, or other forms of indebtedness (including the refunding of any revenue indebtedness outstanding as of the effective date of this Act and including the refunding of revenue refunding bonds or notes), and the revenue refunding bonds or notes issued hereunder shall be issued upon the simultaneous cancellation of the underlying indebtedness being refunded or refinanced thereby. All provisions of this Section relating to original bonds, insofar as such provisions may be made applicable, shall apply to such revenue refunding bonds or notes. As amended Acts 1963, 58th Leg., p. 854, ch. 326, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER 3A.—PAN AMERICAN COLLEGE

Art.
2619a. Pan American College

Art. 2619a. Pan American College

Creation of the College

Section 1. There is hereby established in Hidalgo County, Texas, a coeducational institution of higher learning, which shall be known as Pan American College, to be conducted, operated and maintained under a Board of Regents as herein provided.

Organization and control

Sec. 2. The organization and control of such College shall be vested in a Board of nine (9) Regents, who shall be appointed by the Governor of Texas with the advice and consent of the Senate. The term of office of each Regent shall be six (6) years, provided that in making the first appointment the Governor shall appoint three (3) members for six (6) years, three (3) members for four (4) years and three (3) members for two (2) years. Any vacancy that occurs on the Board shall be filled for the unexpired term by appointment of the Governor.

Each member of the Board shall take the Constitutional oath of office. Each member of the Board of Regents shall be a citizen of the State of Texas. The said Board of Regents shall meet for the first time, after the passage of this Act, at the time and place designated by the Governor, as soon after their appointment as possible. They shall organize by electing one (1) of the members Chairman, and by electing such other officers as they deem necessary. They shall enact bylaws, rules and regulations as may be necessary for the successful management and government of the College. They shall select a President for the College as soon as possible

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after the organization of the Board of Regents. The President shall be executive officer for the Board of Regents and shall work under its direction. He shall recommend the plan of organization of said College and shall be responsible to said Board for the general management and success of said College.

Full, accurate and complete minutes of the Board of Regents shall be kept or maintained, which shall be open to inspection by the public at the College during regular business hours. Certified copies of any minutes shall be furnished on payment of such fee as may be assessed by the Board, not to exceed Twenty-five Cents (25¢) per one hundred (100) words or fractional part thereof. The Board shall adopt such rules or regulations, not inconsistent with law, as may be necessary for the successful management and operation of the College.

General business powers of Board

Sec. 3. The Board of Regents has the power to sue and be sued in the name of Pan American College. Venue shall be in either Hidalgo County or Travis County. The College shall be impleaded by service of citation on the President and legislative consent to such suits is herewith granted.

All contracts of the College shall be approved by a majority of the Board of Regents. All contracts, bonds and notes heretofore entered into or issued by or in behalf of Pan American College are hereby ratified, confirmed and validated for and on behalf of the College hereby created. But as to such bonds and notes, such ratification, confirmation and validation shall apply subject to the provisions of and only to the extent provided in Section 14 hereof.

Reimbursement of Regents

Sec. 4. Members of the Board of Regents shall serve without pay, but shall be reimbursed for their actual expenses incurred in attending the work of the Board, subject to the approval of the Chairman.

Meetings of the Board of Regents

Sec. 5. The Board of Regents shall hold a regular meeting at the campus of Pan American College during the month of April, annually, and at such times and places as shall be scheduled by it, or as the Chairman shall call from time to time.

Reports by Board of Regents

Sec. 6. The Board of Regents shall report to the Governor, annually, to each Regular Session of the Legislature, at the beginning thereof, and to the Texas Commission on Higher Education, annually, the condition of the College, setting forth, in detail, the receipts and disbursements, the number of teachers and salary of each member of the faculty, the number of employees and each salary received and general statement of duties performed, the number of students, classified by grades and departments, an itemized statement of all the expenses incurred for each year, together with a summary of the proceedings of the Board and of the faculty.

Regents may appoint and remove officers

Sec. 7. The Board of Regents shall have power to appoint and to remove the President, any faculty member, or other officer or employee of the College when in its judgment, the interest of the College shall require it, and it shall fix the respective salaries and duties of such officers and employees.

Establishment and operation of the College

Sec. 8. This Act shall become effective September 1, 1963. Prior to September 1, 1963, the Regents provided for in this Act shall be appointed. During the period from September 1, 1963, to August 31, 1965, they shall blend their organization with the organization of the Board of Regents of Pan American Regional College District of Hidalgo County, Texas, said latter Board of Regents to continue to be selected and serve until August 31, 1965, as provided in Section 2815t, Revised Civil Statutes of Texas. There shall be for the period from September 1, 1963, to August 31, 1965, one integrated Board of Regents composed of the nine (9) members appointed by the Governor and the members of the Pan American Regional College District, which shall be jointly organized as one Board of Regents, and shall operate Pan American Regional College District from September 1, 1963, to August 31, 1965, as provided in Section 2815t, Revised Civil Statutes of Texas and shall plan in accordance with this Act to begin operation of Pan American College September 1, 1965.

Interim finances

Sec. 9. For the period from September 1, 1963, to August 31, 1965, Pan American Regional College District shall be financed as is now provided by Acts 1951, 52nd Legislature, Chapter 272, as amended (Article 2815t, Vernon's Texas Civil Statutes, as amended). During such period the Board of Regents shall be fully empowered to issue bonds pursuant to the authority granted in Article 2815t.

During this operational period the integrated Board of Regents shall arrange for the transfer of properties as hereinafter provided and shall plan the financing of Pan American College provided that failure to effect a transfer of properties and otherwise provide for the College as herein described by September 1, 1965, shall in no way impair but shall leave intact Pan American Regional College District with all laws now thereto pertaining, and provided further, that all interim expenses of the Board of Regents shall be paid by Pan American Regional College District.

The work of the College, courses and degrees

Sec. 10. Pan American College is empowered to offer work and confer degrees which will be recognized as first-class college work, said courses and work to be developed and offered when in the judgment of the Board of Regents and the educational welfare of the area served by the College justifies such courses and work; provided, however, that the role and scope of Pan American College, including its authorized departments and offerings of degree and certificate programs at the effective date of this Act, shall be subject to the determination and approval of the Texas Commission on Higher Education.

Additional courses and programs

Sec. 11. No new department, degree program, or certificate program shall be added by Pan American College after the effective date of this Act, except by specific prior approval by the Texas Commission on Higher Education.

Tuition or registration fees

Sec. 12. The Board of Regents shall cause to be collected from students registering in the College, tuition or registration fees at rates set in Section 1 of Chapter 196, Acts of the 43rd Legislature, Regular Session, 1933, as such Act was last amended by Chapter 435, Acts of the 55th Legis-

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lature, Regular Session, 1957, and the provisions of that Act as amended in 1957 shall apply to Pan American College unless in conflict with this Act.

Transfer of property

Sec. 13. Pan American Regional College District, acting by and through its Board of Regents, has agreed to donate to the Board of Regents of the College herein created all of the assets, real, personal, tangible and intangible, held in its name, whether of record or not; on or before the first day of September, 1965; provided, however, that such transfer must be accomplished prior to the assumption of full financial support, control and management of the College herein created by the State of Texas, together with all of the indebtedness against it on that date still outstanding to the extent set forth in this Act, and from such date Pan American College, created by this Act, shall hold title to all properties so conveyed and shall commence operations of such properties for the use and benefit of the State of Texas

General and special obligation debts of Pan American Regional College District

Sec. 14. The General and Special Obligations of Pan American Regional College District are as follows:

(1) Special Obligation Debt.

(a) Building Revenue Bonds: The remaining unpaid balance of a bond issue originally issued in the aggregate principal amounts of \$584,000.00 entitled Board of Regents of Pan American Regional College District Building Revenue Bonds, Series 1960. Such bonds are secured by pledge of a building use fee charged all students enrolled in Pan American College for the use of the buildings of the General Academic Building System. The Board of Regents of the college herein created, will be charged with the duty of fixing such fee to be sufficient to provide at all times monies sufficient for paying of the principal of and the interest on the bonds and all other payments, charges, and deposits required in connection with the bonds. Said bonds shall remain a charge against all students enrolled in the college for the use of such buildings; and this Act shall not be construed to place any further or additional obligations on the Pan American College created by this Act.

(b) The remaining unpaid balance of a bond issue originally issued in the aggregate principal amount of \$216,000.00 entitled Board of Regents of Pan American Regional College District Auxiliary Enterprise System Revenue Bonds, Series 1960, and the remaining unpaid balance of a bond issue originally issued in the aggregate principal amount of \$396,000.00, entitled Board of Regents of Pan American Regional College District Auxiliary Enterprise System Revenue Bonds, Series 1962. The payment of such issues is secured by pledge of the net revenue derived from the operation of an auxiliary enterprise system (which presently consists of a Student Union Building, including a bookstore, game room, dining hall and snack bar, and two dormitories for sixty (60) students, and one (1) supervisor, each), and the revenue derived from a student union building fee levied against all enrolled students. The Board of Regents of Pan American College created by this Act is charged with setting such fee to be sufficient, together with other pledged revenue, to meet all debt service, and reserve requirements. Such bonds are secured at the present time only by liens on such revenues and it is hereby enacted that they shall never become general obligations of the Pan American College created by this Act, but shall remain a charge upon the net revenue derived from the

operation of an auxiliary enterprise system and the revenue derived from the student union building fee levied against all enrolled students.

(2) General Obligation Debt.

The remaining unpaid balance of Edinburg Junior College District School Bonds, Series 1948, which is a limited tax bond, originally in the principal sum of \$600,000.00, and which was assumed in 1952 by Pan American Regional College District. Such bond was assumed under Section 15, Article 2815t, of the Revised Civil Statutes of Texas, and secured by tax revenue up to but not exceeding Fifty Cents (50¢) on each One Hundred Dollars (\$100.00) of assessed valuation of taxable property located in the Pan American Regional College District, which is co-terminus with Hidalgo County, Texas, and such bonds shall remain a general obligation of Pan American Regional College District. It is hereby enacted that such obligation shall never become a general obligation of Pan American College created by this Act, but shall remain an obligation of Pan American Regional College District. From and after such date as the Board of Regents of Pan American Regional College District shall be dissolved the Commissioners Court of Hidalgo County, Texas, shall have the duty and power to set the tax rate necessary to service such bonds, and the tax assessor and collector of said county shall assess and collect the taxes of said college district on the taxable property in the territory of said district located in the County of Hidalgo, as defined under Section 12 and Section 15 of Article 2815t of the Revised Civil Statutes of Texas, for the purposes of servicing and retirement of said bonds. That such tax collector shall collect the college district taxes at the same time that he collects the state and county taxes, and all taxes collected for the Pan American Regional College District shall be accounted for and paid over to the Treasurer of Hidalgo County, Texas. The County Treasurer shall maintain and hold the interest and sinking fund for such bonds and the County shall service the bonds in accordance with the bond indenture of said bonds. The tax assessor and collector shall receive the same compensation for his services in assessing and collecting such taxes as provided by law for like services rendered for junior college districts. Provided, however, that the total annual tax levied for the retirement of such bonds shall not exceed a rate of Fifty Cents (50¢) on each One Hundred Dollars (\$100.00) of assessed evaluation of taxable property located in the Regional College District of Hidalgo County, Texas.

Donations, gifts and endowments

Sec. 15. The Board of Regents is authorized to accept donations, gifts, and endowments for the College to be held in trust and administered by said Board for such purposes and under such directions, limitations and provisions as may be declared in writing in the donation, gift, or endowment, not inconsistent with the laws of the State of Texas or with the objectives and proper management of said College.

**Borrowing funds for construction and equipment of buildings,
assessing and pledging fees**

Sec. 16. The Board of Regents of Pan American College is hereby authorized and empowered without cost to the State of Texas to construct or otherwise acquire, and equip (including the acquisition of necessary sites), through funds or loans obtained from the United States of America, or any agency thereof, or any other source, public or private, and accept title thereto, subject to such conditions and limitations as may be prescribed by said Board, including, but not limited to, classroom buildings,

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dormitories, kitchens and dining halls, hospitals, libraries, student activity buildings, gymnasias, athletic buildings and stadia, and such other buildings and facilities as may be needed for the good of Pan American College and the moral welfare and social conduct of its students, when the total cost, type of construction, capacity of the buildings or facilities, plans and specifications have been approved by the Board.

Provided further, that the Board is authorized to fix fees and charges against students for the use of said buildings and facilities so long as any indebtedness issued hereunder remains outstanding, and to pledge the revenues from such fees and charges for the payment of the interest on and principal of said indebtedness, including the establishment and maintenance of reserves as may be provided in the proceedings relating to such indebtedness.

The loans obtained under the provisions of this Section may be evidenced by negotiable revenue bonds or notes of the Board of Regents. Such revenue bonds or notes shall bear interest at a rate or rates not exceeding six per cent (6%) per annum, shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and shall be sold at not less than their par value plus accrued interest from date to delivery. They shall be payable solely from the revenues of said buildings and facilities, including the fees and charges against students for the use of such buildings and facilities, and the Board may also pledge the unused or unpledged revenues from other revenue-producing buildings, structures, and facilities to the payment of the bonds and notes issued under this Section. In the resolution authorizing the issuance of any revenue bonds or notes and in the proceedings relating thereto, the Board of Regents may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, reserve fund or funds, and any other funds provided for therein, and may make such covenants with respect to the bonds or notes and the pledged revenues and the operation, maintenance, and upkeep of such buildings and facilities as it may deem appropriate. Said resolution and other proceedings may also prohibit the further issuance of bonds or notes payable from the pledged revenues, or may reserve the right to issue additional bonds or notes to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds or notes then being issued, subject to the conditions as are set forth in said resolution or other proceedings. Such resolution and other proceedings may contain such other provisions and covenants, as the Board of Regents shall determine, not prohibited by the Constitution of the State of Texas or by this Act.

Bonds or notes issued under this Section shall not constitute an indebtedness of the State of Texas or a charge against funds raised or to be raised by taxation.

The Board of Regents may issue revenue refunding bonds or notes to refund or refinance any outstanding revenue bonds, notes, or other forms of indebtedness (including the refunding of any revenue indebtedness outstanding as of the effective date of this Act and including the refunding of revenue refunding bonds or notes), and the revenue refunding bonds or notes issued hereunder shall be issued upon the simultaneous cancellation of the underlying indebtedness being refunded or refinanced thereby. All provisions of this Section relating to original bonds, insofar as such provisions may be made applicable, shall apply to such revenue refunding bonds or notes.

The Board of Regents is hereby granted all the powers conferred by Sections 4 to 8(a), both inclusive, of Chapter 368, Acts of the 54th Legis-

lature of Texas, Regular Session, 1955, as amended (Article 2909c, Vernon's Texas Civil Statutes, as amended); provided, that in the event of any conflict or inconsistency between the provisions of said Sections 4 to 8(a), both inclusive, and the provisions of this Section, the provisions of this Section shall govern and prevail.

Prior to the delivery thereof, all revenue bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination and if he finds that they have been authorized to be issued in accordance with the Constitution of the State of Texas and this Act, and that they will be binding and special obligations of the Board of Regents, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of Texas, and after such approval and registration they shall be incontestable.

All revenue bonds and notes issued under the provisions of this Section (whether original bonds or notes or refunding bonds or notes) shall be, and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds and notes shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies of every kind, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto.

Management of dormitories and other facilities

Sec. 17. The Board of Regents is authorized to fix fees, rentals and charges for the use of the dormitories, auditoriums, dining halls, buildings and all other facilities of Pan American College, and shall make rules and regulations to assure the maximum occupancy and use thereof. The charges made and fees fixed against students and others using any such facilities shall be in amounts deemed by the Board to be reasonable, taking into consideration the cost of providing such facilities and services, the use to be made thereof, and the advantages to be derived therefrom.

Contracts for military training

Sec. 18. The Board of Regents is empowered to contract with the Department of Defense of the United States of America to establish and maintain courses of military training as a part of its curriculum, with the work of students enrolling in such courses being credited toward degree requirements under such regulations as the Board of Regents may prescribe. Included within its power to contract is the power to lease armory lands and buildings from and to the United States of America, and to acquire such equipment and material as is necessary to accomplish the purposes of such courses, and to enter into insurance contracts for the protection of the Federal Government's rights in and to such properties.

No student of the College shall ever be required to take any portion of such military training as a condition for entrance into the College or for graduation therefrom.

Applicability of General Laws

Sec. 19. From and after the operative date of this Act, the Pan American College herein created shall be subject to the obligations and entitled to the benefits of all General Laws of Texas applicable to other state institutions of higher learning, except where such General Laws are in conflict with this Act, and in such instances of conflict this Act shall prevail only to the extent of such conflict. Acts 1963, 58th Leg., p. 421, ch. 146.

Effective Sept. 1, 1963.

Acts 1963, 58th Leg., p. 421, ch. 146, § 20 repealed all conflicting laws and parts of laws.

Buildings, construction and improvement by certain colleges and universities, see art. 2909c.

Eminent domain, power of regional college districts, see art. 2815t—1.

Regional college districts, see art. 2815t.

Texas commission on higher education, see art. 2919e—2.

Tuition rates in state institutions of collegiate rank, see art. 2654c.

CHAPTER FIVE—TEXAS WOMAN'S UNIVERSITY**TEXAS WOMAN'S UNIVERSITY**

Art.

2628a—10. Acquisition of land for field classrooms [New].

Art. 2628a—10. Acquisition of land for field classrooms

Section 1. That the Board of Directors of the Texas College of Arts and Industries is authorized to acquire land in Hidalgo County, without cost to the State of Texas, to provide field classrooms to further the work of the college in agriculture and animal husbandry.

Sec. 2. That the Board of Directors of the Texas College of Arts and Industries is authorized to pledge any future revenue from any land acquired under this Act to secure any lien given and retained to secure the purchase price of said land.

Sec. 3. That the Board of Directors of the Texas College of Arts and Industries is authorized to pledge collaterally and additionally, any unencumbered future net revenue from the bookstore of the Texas College of Arts and Industries to secure any lien given and retained to secure the purchase price of any land acquired under this Act. The Board of Directors may direct that any revenue from the land acquired under this Act remaining after payment of the monthly or yearly installments or after discharge of the lien retained on the land shall be used to reimburse the bookstore to the extent that any of its revenue has been expended in payment of the purchase price of the land. Acts 1963, 58th Leg., p. 107, ch. 59.

Emergency. Effective April 19, 1963.

Title of Act:

An Act authorizing the Board of Directors of the Texas College of Arts and Industries to acquire land in Hidalgo County; to pledge future revenue of land acquired

and bookstore future net revenue to secure a lien on land acquired; containing a severability clause; and declaring an emergency. Acts 1963, 58th Leg., p. 107, ch. 59.

CHAPTER SIX—TEXAS TECHNOLOGICAL COLLEGE

Art. 2632c. Lease of campus land to United States for armory

Section 1. The Board of Directors of Texas Technological College at Lubbock is hereby authorized to lease to the United States Government or any suitable agency thereof not to exceed five and one-half (5.5) acres of land being a part of the campus of said college to be used and occupied by the said United States Government, the Army, Navy or other department or agency thereof for a period not to exceed ninety-nine (99) years on which to erect and maintain an armory building or other suitable building or buildings for the instruction of students of said college in military and naval sciences and any other subjects that may be provided for the instruction of students of said college. As amended Acts 1963, 58th Leg., p. 1154, ch. 449, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER NINE—STATE TEACHERS' COLLEGES

1. GENERAL PROVISIONS

5. ANGELO STATE COLLEGE [NEW]

Art.

Art.

2647d—1. Killgore Research Center at West Texas State College [New].

2654.2 Angelo State College.

1. GENERAL PROVISIONS

Art. 2647d. West Texas State University; name

Section 1. The name of the coeducational institution of higher learning at Canyon, Texas, now known as West Texas State College, shall hereafter be known as "West Texas State University"; and said West Texas State University as newly named shall remain under the jurisdiction of the Board of Regents, Texas State Teachers Colleges.

Sec. 2. Wherever the name West Texas State College, or West Texas State Teachers College, or any reference to either, appear in any Acts of any Legislature of this State, such name and such reference shall hereafter mean and apply to West Texas State University, in order to conform to the new name of said University as provided in Section 1 hereof.

Sec. 3. All legislative Acts and appropriations heretofore passed either in or by reference to West Texas State College or to West Texas State Teachers College or to West Texas State University are in all things ratified and confirmed in behalf of West Texas State University. As amended Acts 1963, 58th Leg., p. 60, ch. 40, §§ 1-3.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2647d—1. Killgore Research Center at West Texas State College Gifts and donations; location of research center

Section 1. The Board of Regents of the State Teachers Colleges is hereby authorized to accept gifts and donations of money and other personal property from The Killgore Foundation and from any other private

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organization or individual, to establish, construct, maintain and operate a regional research center to be known as the Killgore Research Center, on any land held by the Board of Regents for the use of West Texas State College.

Transfer of money; disbursements

Sec. 2. All money so received shall be transferred as soon as available to the West Texas State College Foundation or to any other fund or foundation chosen by agreement between the donors and the administration of West Texas State College. The disbursement of all such money shall be under the supervision of the Business Manager of West Texas State College, subject to accounting procedures approved by the State Auditor.

Maintenance and administration

Sec. 3. The maintenance and administration of the research center shall be the responsibility of the State of Texas acting through the administration of West Texas State College, with the advice and assistance of an advisory council on research selected by the administration and the donors.

Permanent research program

Sec. 4. In order to provide for a permanent research program, the administration of the college may:

(1) Establish formalized working relationships with established research programs, similar to the relationship already developed between West Texas State College and The University of Texas, M. D. Anderson Hospital and Tumor Institute;

(2) Integrate the research program now developing in the Graduate School of West Texas State College with the research program to be established at the research center;

(3) Employ Project Directors who are recognized researchers and who have had experience in applying for and using research grants from governmental agencies and private foundations;

(4) Assign a person from the administrative staff of the college as administrator of the research center;

(5) Perform any other acts and make any agreements which will implement and further the research programs of the research center and of the college, consistent with the purposes of this Act. Acts 1963, 58th Leg., p. 504, ch. 189.

Emergency. Effective May 18, 1963.

Change of name of West Texas State College to West Texas State University, see art. 2647d. University of Texas M. D. Anderson Hospital and Tumor Institute, see arts. 2603f, 2603f-1.

5. ANGELO STATE COLLEGE

Art. 2654.2. Angelo State College

Creation of college; organization, control and management

Section 1. There is hereby created and established in the City of San Angelo, Tom Green County, Texas, a coeducational institution of higher learning for the youth of the state, which shall be known as Angelo State College. The organization, control and management of said Angelo State College shall be vested in the Board of Regents of the State Teachers Colleges.

Board of regents; appointment of officers and employees; salaries

Sec. 2. The Board of Regents shall have the power to appoint and to remove the President, any faculty member, or other officer or employee of the College, when, in its judgment, the interests of the College shall require the appointment or removal thereof, and it shall fix the respective salaries and duties of such officers, all faculty members and all employees by written order incorporated into the minutes of the Board.

Courses of study; degrees; fees

Sec. 3. Angelo State College shall offer courses of higher learning in the arts and sciences, in business administration and teacher training, establishing a standard four-year course for said College. Such courses of study shall be offered as are found in the senior colleges of the state in similar fields as the Board of Regents may, in writing, order; provided, however, that the role and scope of Angelo State College, including its authorized departments and offerings of degree and certificate programs at the effective date of this Act, shall be subject to the determination and approval of the Texas Commission on Higher Education; and provided further, that any bachelor's degree shall be based on four (4) years of college work, and any higher degree may be offered, with appropriate courses, only on the recommendation of the Board of Regents with the written approval of the Texas Commission on Higher Education, specifying such courses, and financed by public funds, when it is determined that the educational welfare of the people served by the College, and the best interests of the state, demand such advanced courses and degrees; and provided further, that all work done and all courses, certificates and diplomas awarded to students shall conform to standard college requirements of The University of Texas for any degrees awarded. Short courses, terminal courses and special courses of practical value to the people may be given, from time to time, by Angelo State College as the Board of Regents shall order and direct in writing; provided, however, that fees equal to those customarily charged for similar courses in other state colleges shall be levied for such courses. Additional courses of study to be offered at the third and fourth year levels shall be submitted to and approved, in writing, by the Texas Commission on Higher Education, or its successors, before being offered at Angelo State College, and no credits shall be awarded in any course or courses of study not so approved.

Assets of Junior college district of Tom Green County

Sec. 4. The Junior College District of Tom Green County, Texas, acting by and through its Board of Trustees, has agreed to transfer, give and donate to the Board of Regents, and its successors, of the College herein created, all of the assets, real, personal, tangible and intangible, held in its name, whether of record or not, on the first day of September, 1965, and the Board of Regents is hereby authorized to acquire, by gift, the aforesaid corporeal properties and facilities, of the Junior College District of Tom Green County, Texas, as it now exists, provided, that said corporeal properties and facilities of the aforesaid Junior College District of Tom Green County shall be delivered to the Board of Regents, or to its successors, free and clear of any indebtedness or indebtednesses, encumbrance or encumbrances of any kind or character and of whatsoever nature.

Donations, gifts and endowments

Sec. 5. The Board of Regents, or its successors, of the College created herein, is authorized to accept donations, gifts and endowments for the

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College, to be held in trust and administered by said Board of Regents for such purposes and under such directions, limitations and provisions as may be declared in writing in the donation, gift or endowment, not inconsistent with the laws of this state or with the objectives and proper management of said College.

Management and control of lands; conveyances and leases

Sec. 6. The Board of Regents or its successors is hereby vested with the sole and exclusive management and control of all the lands, including lands with oil and gas and other minerals, owned by the Junior College District of Tom Green County, Texas. The Board of Regents or its successors is authorized and empowered to sell, lease, explore and develop such lands, to make and enter into unitization agreements, execute division orders or other contracts necessary in the management and development of said lands, all on such terms and conditions as the Board of Regents deems in the best interests of the College; provided, however, that no lease shall be sold for less than the royalty and rental terms demanded at that time by the General Land Office of the State of Texas in the sale of oil, gas and other mineral leases of the public lands of the State of Texas.

All monies received under such conditions shall be deposited in the State Treasury to the credit of a special fund which in the judgment of said Board of Regents may be invested and which principal and income may be expended, upon appropriation by the Legislature, for the administration of said College.

Fees, rentals and charges

Sec. 7. The Board of Regents is authorized and shall prescribe the fees, rentals and charges for the use of dormitories, auditoriums, dining halls, buildings and all other facilities of Angelo State College, and shall make rules and regulations to assure the maximum occupancy and optimum use thereof. The charges made and fees fixed against students and all others using any such facilities shall be in amounts deemed by the Board of Regents to be reasonable, taking into consideration the cost of providing such facilities and services, the use to be made thereof and the advantages or benefits to be derived therefrom. Any and all fees that may be derived therefrom shall be reported to the Board of Regents as may be required by it, including a brief statement of the use made of such facilities and of the persons, firm, organization or association that used such facilities to be included in each report.

Obligations and benefits of general laws

Sec. 8. From and after the operative date of this Act, Angelo State College herein created shall be subject to the obligations and entitled to the benefits of all General Laws of Texas applicable to all other state institutions of higher learning, except where such General Laws are in conflict with this Act, and in such instances of conflict this Act shall prevail only to the extent of such conflict.

Military training

Sec. 9. The Board of Regents, subject to the approval of the Texas Commission on Higher Education, is empowered to contact¹ upon terms and conditions mutually agreed upon with the Department of Defense of the United States of America to establish and maintain courses of military training as a part of its curriculum, with the work of students enrolling in such courses being credited toward degree requirements under such

regulations as the Board of Regents may prescribe, provided, however, that no student of the College shall ever be required to take any portion of such military training as a condition for entrance into the College or for graduation therefrom. Acts 1963, 58th Leg., p. 468, ch. 167.

¹ So in enrolled bill.

Effective Sept. 1, 1965.

Military training at state supported institutions of higher learning, see art. 2919e—1.

Texas commission on higher education, see arts. 2919e, 2919e—2.

CHAPTER NINE A—TUITION AND CONTROL OF FUNDS OF STATE INSTITUTIONS

Art. 2654a. Tuition in state educational institutions

Sec. 2. In addition to tuition fees authorized by law, any such educational institution shall make and collect a laboratory charge in an amount sufficient to cover in general the cost of laboratory materials and supplies used by a student; provided, however, that such charge shall be not less than Two Dollars (\$2) nor more than Eight Dollars (\$8) for any one semester or summer term from any student in any one laboratory course. It is further provided that any such educational institution may also collect a reasonable deposit not to exceed Ten Dollars (\$10), from each student to insure said institution against losses, damages, and breakage in libraries and laboratories, said deposits to be returned upon withdrawal or graduation of a student less such loss, damage, or breakage as may have been done by each individual student who has put up such a deposit; except, however, that the Medical and Dental units of The University of Texas System shall collect a breakage or loss deposit no greater than Thirty Dollars (\$30). As amended Acts 1959, 56th Leg., 2nd C.S., p. 99, ch. 12, § 1; Acts 1963, 58th Leg., p. 118, ch. 69, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Change of name of Agricultural and Mechanical College of Texas to Texas A and M University, see art. 2607a.

Change of name of West Texas State College to West Texas State University, see art. 2647d.

Pan American College, tuition or registration fee, see art. 2619a, § 12.

Art. 2654d. Control of funds by governing boards

Change of name of West Texas State College to West Texas State University, see art. 2647d.

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 annually exempt from the payment of tuition fees one hundred (100) native-born students from the other nations of the American continents. Five (5) students from each nation shall be exempt as provided herein, unless any nation fails to have five (5) students available and qualified for exemption in which case more than five (5) students from any other nation of the American continent may be exempt, subject to the limitation that no more than one hundred (100) students from all such nations shall be exempt each year, except that no student from Cuba shall be permitted to participate.

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

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. 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. As amended Acts 1963, 58th Leg., p. 544, ch. 201, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Section 2 of the amendatory act of 1963 repealed all conflicting laws and parts of laws.

CHAPTER NINE B—ADMINISTRATION OF PUBLIC FREE SCHOOLS

Art.

2654—3c. Requiring school districts to hire supervisor or guidance counselor [New].

Article 2654—1. Central Education Agency

Requiring school districts to hire guidance counselor as prerequisite for accreditation, see art. 2654—3c.

Art. 2654—1a. Special program for preschool children with hearing loss

Rehabilitation districts for handicapped persons, see art. 2675k.

Art. 2654—3a. Sale or exchange of obligations held for permanent school fund

Section 1. The State Board of Education is hereby authorized to sell or exchange any United States Treasury bonds, notes, certificates of indebtedness or other securities issued by the United States Treasury, and is hereby authorized to sell any municipal bonds issued by any county, city, precinct, district or any other political subdivision at any time held by the State Treasurer for the account of the Permanent School Fund; provided, however, that such obligations shall not be sold for a price less than the book value of such obligations; provided further, that United States government obligations shall not be exchanged for other obligations having a par value less than the par value of the obligations to be exchanged. For purposes of this Section, book value shall mean the actual amount of money the Permanent School Fund has invested in such obligations at the time of such sale or exchange. In making each and all of such sales said Board of Education shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. As amended Acts 1954, 53rd Leg., 1st C.S., p. 28, ch. 11, § 1; Acts 1963, 58th Leg., p. 1180, ch. 466, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2654—3c. Requiring school districts to hire supervisor or guidance counselor

The State Board of Education shall not adopt any policy, rule, regulation or other plan which would require any school district within the State of Texas, as a prerequisite for accreditation or other approval, to hire any supervisor or any guidance counselor. Acts 1963, 58th Leg., p. 935, ch. 364, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Regulations of state board for government of school districts, see art. 2667.

CHAPTER TEN—STATE DEPARTMENT OF EDUCATION

2. STATE BOARD

- Art. 2668b. Travis State School Independent School District [New].
- 2668c. Richmond State School Independent School District [New].

Art. 2668d. Lufkin State School Independent School District [New].

5. REHABILITATION DISTRICTS

2675k. Rehabilitation districts for handicapped persons [New].

2. STATE BOARD

Art. 2666. 2733 New districts created at Eleemosynary Institutions

Abolishment of districts created hereunder and of authority granted hereunder, see art. 2756c.

Corpus Christi State School Independent School District, see art. 3263e, § 4.

Art. 2667. 2734 Trustees for such districts

Requiring school districts to hire guidance counselor as prerequisite for accreditation, see art. 2654—3c.

Art. 2668a. Denton State School Independent School District

Abolishment of school districts created at eleemosynary institutions, see art. 2756c.

Corpus Christi State School Independent School District, see art. 3263e, § 4.

Art. 2668b. Travis State School Independent School District

Section 1. There is hereby created the Travis State School Independent School District. The territorial limits of the Independent School District created shall be co-extensive with the territorial boundaries of the Travis State School.

Sec. 2. The Board for Texas State Hospitals and Special Schools shall be ex officio trustees of the district so created. Upon the effective date of this Act said trustees shall take and certify the census of the children within the scholastic age in the district, and funds shall thereafter be apportioned to such district accordingly. Acts 1963, 58th Leg., p. 59, ch. 39.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act creating the Travis State School Independent School District; providing for its territorial limits; providing for trustees; providing for taking census and certifying scholastics; and declaring an emergency. Acts 1963, 58th Leg., p. 59, ch. 39.

Abilene state school, see art. 3232b.

Change of name of State School Farm Colony to Travis State School, see art. 3174a, note.

Art. 2668c. Richmond State School Independent School District

Section 1. There is hereby created the Richmond State School Independent School District. The territorial limits of the Independent School

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District created shall be coextensive with the territorial boundaries of the Richmond State School.

Sec. 2. The Board for Texas State Hospitals and Special Schools shall be ex officio trustees of the district so created. Upon the effective date of this Act said trustees shall take and certify the census of the children within the scholastic age in the district, and funds shall thereafter be apportioned to such district accordingly. Acts 1963, 58th Leg., p. 113, ch. 63.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act creating the Richmond State School Independent School District; pro-

viding for its territorial limits; providing for trustees; providing for taking census and certifying scholastics; and declaring an emergency. Acts 1963, 58th Leg., p. 113, ch. 63.

Art. 2668d. Lufkin State School Independent School District

Section 1. There is hereby created the Lufkin State School Independent School District. The territorial limits of the Independent School District created shall be co-extensive with the territorial boundaries of the Lufkin State School.

Sec. 2. The Board for Texas State Hospitals and Special Schools shall be ex officio trustees of the district so created. Upon the effective date of this Act said trustees shall take and certify the census of the children within the scholastic age in the district, and funds shall thereafter be apportioned to such district accordingly. Acts 1963, 58th Leg., p. 113, ch. 64.

Effective 90 days after May 24, 1963, date of adjournment.

Lufkin state school, see art. 3263d.

Title of Act:

An Act creating the Lufkin State School Independent School District; providing for

its territorial limits; providing for trustees; providing for taking census and certifying scholastics; and declaring an emergency. Acts 1963, 58th Leg., p. 113, ch. 64.

Art. 2675c—2. Totally deaf and blind or totally blind and non-speaking children; education and maintenance; duties of board

Rehabilitation districts for handicapped persons, see art. 2675k.

4. PHYSICAL RESTORATION OF CRIPPLED CHILDREN

Art. 2675j. Rehabilitation Division of State Department of Education

Rehabilitation districts for handicapped persons, see art. 2675k.

Rehabilitation of severely physically disabled Texas citizens, see art. 2675—1, § 3.

5. REHABILITATION DISTRICTS

Art. 2675k. Rehabilitation districts for handicapped persons

Definitions

Section 1. As used in this Act:

(a) "Handicapped person" means a physically handicapped person or a mentally retarded person, not including blind, whose educational or vocational opportunities are limited as the result of physical or mental limitations.

(b) "Physically handicapped person" means any person six (6) years of age or over, of reasonably normal educable mentality, whose body func-

tions or members are so impaired that they cannot be safely or adequately educated or trained for gainful employment in regular classes of normal persons or without special training and special services not usually available in public schools or without training cannot enjoy independent living.

(c) "Mentally retarded person" means any person six (6) years of age or older, who, because of retarded intellectual development cannot be educated safely and adequately in the public schools with normal children or in readily accessible training institutions in the home environs of such person, but who may be expected to benefit from special education or training facilities designed to make him economically useful and socially adjusted.

(d) "District" (unless otherwise indicated by the context) means any Rehabilitation District created under this Act.

(e) "Trainee" means any handicapped person who is or has been enrolled in a District.

(f) "Board of Directors" means Board of Directors of any District.

(g) "Independent living" shall mean any degree of improvement achieved by a handicapped person whether by freedom from institutional or attendental care or reduction of such care.

Training of handicapped persons

Sec. 2. Rehabilitation Districts may be created to provide education, training, special services, and guidance to handicapped persons peculiar to their condition and needs, to develop their full capacity for usefulness to themselves and society, and to prevent them from becoming or remaining, in whole or in part, dependent on public or private charity.

Authority to provide group residence centers

Sec. 3. Each District may, by itself, or in conjunction with service clubs, women's clubs, or other organizations interested in serving the disabled, cities or counties, or any organization or person deemed equipped by the Board of Directors, provide for group residence rehabilitation centers within the Rehabilitation District. Such group residence centers shall be used as living units, with or without board, for those students or trainees of the Rehabilitation District, who have become gainfully employable and/or employed, and who, in the opinion of the Board of Directors, would benefit from group living while adjusting to work and to general society.

Employment of trainees

Sec. 4. Rehabilitation Districts shall cooperate with the Texas Employment Commission and the Vocational Rehabilitation Division of the Texas Education Agency in finding employment for those of its trainees who have become employable.

Additional powers

Sec. 5. All powers relating to the acquisition of land, the construction or acquisition of facilities except the issuance of bonds, and to taxation, vested by law in independent school districts, shall be applicable to any Rehabilitation District, subject to a tax limitation of five cents (5¢) on each One Hundred Dollar (\$100) valuation.

Entrance requirements

Sec. 6. Any handicapped person six (6) years of age or older not subject to the exceptions in the Subsections of this Section may be admitted into a District for education and training.

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(a) No handicapped person shall be admitted into a Rehabilitation District whose parent or guardian, or who himself, if without a parent or guardian, has not lived within the District at least one year next before application for admission, unless full remuneration be received from his home county, family or other sources.

(b) No handicapped person in attendance at a regular public school, between the ages of six (6) and seventeen (17) shall be admitted to a Rehabilitation District without having been referred or assigned to it by the independent school district in which he resides, or by the county school superintendent. If a handicapped person applying to a Rehabilitation District for admission, is over sixteen (16) years of age or under eighteen (18) years of age, and is in attendance at a regular public school, he shall not be admitted to the Rehabilitation District for education and training without having been referred to it for that purpose by the county superintendent, if such public school be situated without an independent school district, or by an independent school district if such public school is within such independent school district.

(c) No handicapped person shall be admitted into a District for education or training as such, without application having been made therefor to it and until he has been found acceptable for education and training by the Entrance Committee of the District which shall set admission standards, such standards having been approved by the Board of Directors. The finding of the Entrance Committee to be created by the Board of Directors, as to the eligibility or ineligibility of an applicant shall be final except that appeal may be made therefrom to the Board of Directors according to an appellate procedure prescribed by the Board of Directors. The decision of the Board of Directors shall be final and nonappealable.

(d) To provide for the continuation of an educational program for handicapped persons between the ages of six (6) and seventeen (17) inclusive, the training facility operated by and within the District shall be assigned special education teachers (units) through the public school district in which said training facility is located; the basis for establishing, operating, and the formula to be used for determining allocation of each type of special education unit shall be the same as required by the Texas Education Agency of any school district.

(e) All handicapped persons of scholastic age enrolled and in training in a District shall be credited to the regular school district from which they were referred to said District or in which they resided at the time they entered for training at said District, and such District shall be entitled to receive all State aid and benefits for each referred trainee that said regular school districts from which said trainees were so referred to said District or in which they so resided at the time of their enrollment at the District would have been entitled based on the attendance of said trainees within said scholastic ages.

Board of Directors

Sec. 7. (a) Composition. The Board of Directors of a District shall be composed of one (1) Director from each county commissioner's precinct located in the District, and one (1) Director at large for each county, and, in addition, one (1) Director at large for each fifty thousand (50,000) inhabitants, or major fraction of such number of inhabitants, in each county in the special school district.

(b) **Initial Selection.** Within thirty (30) days after the election creating the District:

(1) Each county commissioner from each precinct in the District must recommend to the county judge of his county, one (1) Director, and the county judge must appoint the recommended person Director; and

(2) The county judge must appoint the Directors at large authorized for each county by Subsection (a) of this Section.

(c) **Term of Office for Initial Directors.**

(1) The four (4) Directors selected from the commissioners' precincts of each county must determine by lot, in a manner to be prescribed by the Board of Directors, which two (2) shall hold office for a long term and which two (2) for a short term.

(2) If there is more than one (1) Director at large from any county, half of them must serve a long term and half a short term, as also determined by lot. If there is an odd number of Directors at large from any county, the majority of them must serve for the long term and the minority of them for the short term. If there is only one (1) Director at large from any county, he shall serve a short term.

(3) The term of office for those Directors serving a short term runs until the first Saturday in April of the second calendar year after the calendar year in which they were appointed. The term of office for those Directors serving a long term runs until the first Saturday in April of the fourth calendar year after the calendar year in which they were appointed. The term of office for an initial Director from an annexed county must be shortened one (1) year, if necessary to make elections to his office coincide with the elections for Directors in the other counties in the District.

(4) The determinations by lot in Subsection (c) (1) and (2) of this Section must be accomplished at the first meeting of the Initial Board of Directors of the first meeting after an annexation, or as soon thereafter as is practicable.

(5) The Board of Directors must cause a permanent record to be made and preserved of the terms of office of each appointed Director determined by lot as herein provided.

(d) **Subsequent Selection of Directors.**

(1) At the expiration of the term of office of each Director from a commissioner's precinct, his successor must be elected at an election held in that commissioner's precinct at the same time, and by the same election officers as provided for the election of the county school trustees of that county, except that the names of the candidates for the Board of Directors shall appear on a ballot in every voting precinct in the commissioner's precinct in which the candidate is running, provided that all such elections must be called by the Board of Directors, who must give public notice of elections in advance thereof, in a manner to be determined by the Board of Directors, to call the attention of the voting public thereto. The forms of ballots to be used, conformable to General Law, may also be determined by the Board of Directors, and, at the discretion of the Board of Directors, the same ballot for the election of county trustees may be used for the election of Directors. If there is no election for county trustees on the first Saturday in April when the election of Directors of a District is to be held the election shall nevertheless be called and held for District Directors from commissioners' precincts whose terms expire on said date. The Commissioners Court of each county in which any election of Direc-

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tors is held must receive and canvass the returns thereof, and declare the results thereof, at the same time and in the same manner as provided by law in the case of the election of county school trustees, and must forthwith certify the results thereof, at the same time and in the same manner as provided by law in the case of the election of county school trustees, and must forthwith certify the results of the election to the Board of Directors. The District must pay its pro rata part of the expenses of the election of its Directors to the Commissioners Court of the county affected.

(2) At the expiration of the term of office of each Director at large, the county judge of the county from which the Director was appointed must appoint his successor.

(3) Vacancies in the offices of Directors must be filled by appointment by the original appointing powers that appointed the initial Directors for the unexpired term.

(e) Term of Office for Elected Directors. The terms of office of all Directors after those initially appointed shall be for four (4) years.

(f) Oath of Office. Every Director and every officer, whether appointed or elected, must, before assuming the duties of his office, qualify by taking the official oath prescribed for State officers.

(g) Officers.

(1) At the first meeting of the Initial Board of Directors, it must select from among its members, a president and a vice president, and must also select a secretary and a treasurer, who need not be Directors. The secretary and treasurer shall have and perform duties and powers as are usually incident to their offices, in the case of private corporation, and such other duties and powers as may be provided by the Board of Directors. The secretary and treasurer may be the same person.

(2) The treasurer must execute a bond, with good and sufficient surety or sureties, in an amount to be determined by the Board of Directors, payable to the president of the Board of Directors, or his successors in office conditioned that the treasurer will faithfully perform the duties of his office, and faithfully account for all sums of money or other property belonging to the District coming into his hands as treasurer. The amount of the bond may, at any time, be increased or decreased by the Board of Directors, according as they may deem necessary for the protection of the property and funds of the District for which the treasurer is accountable. The premiums, if any, for such bond or bonds shall be payable out of funds of the District.

(3) At the first meeting following each election or appointment of Directors, the president and vice president's terms of office shall end, and the Board of Directors must again select a president and vice president.

(4) The secretary and the treasurer shall hold office at the will and pleasure of the Board of Directors.

(5) The Board of Directors may appoint assistant secretaries as it may deem necessary for the proper conduct of the duties of that office.

(h) Compensation. The Board of Directors may authorize the payment of actual expenses of Directors (including travel expenses) incurred by Directors in attending regular or special meetings, or otherwise rendering services for the District on the authority and at the direction of the Board of Directors. The treasurer and secretary, and any assistant secretaries shall receive such compensation, if any, as may be determined by the Board of Directors.

(i) Powers of the Board of Directors. In addition to other powers granted herein, the Board of Directors is empowered and required to:

(1) Govern the District;

(2) Fix such fees and tuition rates as are deemed necessary to supplement other sources of funds for maintaining and operating the District in carrying out its functions, with authority, however, to reduce fees and tuition, or waive them altogether, in cases where the parents or guardians of trainees are able to pay a portion only or none of such tuition or fees, in the judgment of the Board of Directors, or in the judgment of an agency created by the Board of Directors to determine such matters;

(3) Levy taxes and make such distribution of such taxes as it may deem necessary for providing needed housing and facilities, and for the support of the Rehabilitation program, except that the total annual tax for all District purposes shall not exceed the rate of five cents (5¢) on each One Hundred Dollars (\$100) of assessed valuation of taxable property located in such District;

(4) In behalf of the District, accept donations, gifts, and endowments for the District, to be taken in trust and administered by the Board of Directors for such purposes, and under such directions, limitations, and provisions, if any, as may be prescribed in writing by the donor, not inconsistent with the proper management and objects of the Rehabilitation District;

(5) Conduct the business affairs of the District with the same powers and duties provided by law for the Board of Trustees of independent school districts;

(6) Adopt an official seal and name for the Rehabilitation District;

(7) Plan the residential program and the curriculum of the District, or have them planned under its direction; but in any event, plans must be approved by the Board of Directors, and also by the State Commission of Education and by the Executive Director of the State Board for Hospitals and Special Schools;

(8) Make reasonable limitation on the duration of residence and attendance by trainees, according to standards adopted by it, and

(9) Itself, or through an agency established by it for attending to such matters, terminate the training of any trainee who proves to be unadaptable to the training program of the District, or who is so disturbing in conduct to the other trainees as to be detrimental to the District. The exercise of the termination power is unreviewable.

(j) Meetings. The first meeting of the Initial Board of Directors shall be within twenty-one (21) days of the time the Directors are appointed, at a time and place appointed by the county judge of the county of the District containing the greatest population according to the most recent officially proclaimed Federal Census. Thereafter, meetings must be held at such times as may be provided in the rules and bylaws of the Board of Directors. Special meetings may be called by the president, or by any five (5) members of the Board.

(k) Rules of Procedure; Quorum. The Board of Directors may adopt its own rules of procedure, but a majority of the Directors shall constitute a quorum, and a majority of those in attendance may transact any business.

(l) Regular Office. The Board of Directors must select and maintain within the District a regular office for its meetings and for the transaction of business, at such place within the District as it may determine.

Procedure for establishment of Rehabilitation District

Sec. 8. A Rehabilitation District may be established by voters of a county, or a combination of contiguous counties, containing taxable property, the total assessed valuation of which must be not less than Two Hundred Million Dollars (\$200,000,000), according to the most recent tax rolls of the county or combination of counties making up the proposed District, in the following manner:

(a) **Petition.** A petition signed by a number of qualified property tax-paying voters in each county in the proposed Rehabilitation District equal to not less than one per cent (1%) of the total number of votes cast for Governor in such county at the most recent election for Governor held therein, must be filed with the Commissioners Courts of the respective counties. The signatures on the petition must be segregated according to the counties in which the signers reside, under appropriate headings indicating the county of residence. If there is more than one (1) county in the proposed District, the petition must be in two (2) or more parts, one (1) part for each county to be included in the District. The name of the proposed District must be set forth in the petition, and must include the words, "Rehabilitation District for Handicapped Persons." The petition must be dated, and must pray for an election, to be held not less than thirty (30) nor more than sixty (60) days after the date of the petition, to determine whether or not there shall be created a Rehabilitation District for handicapped persons, with power to levy taxes to acquire or construct residence centers and such other facilities, if any, as the Board of Directors may deem necessary or proper for the training and guidance of handicapped trainees and to maintain and operate said District.

(b) **Election.** Promptly on receipt of a petition, each Commissioners Court must order an election to be held in his county on the date prayed for in the petition. The order must designate polling places, appoint election officers, provide supplies for the election, and set forth the name of the proposed Rehabilitation District as specified in the petition. The election precincts must conform to the regular election precincts of each county. Each Commissioners Court must cause notice of election to be published once each week for two (2) alternate weeks in one (1) or more newspapers having general circulation in its county, the first publication to be at least twenty-one (21) days before the election, and must cause notice to be posted in a public place in each commissioner's precinct, and at the court house door of its county. If a regular session of a Commissioners Court receiving a petition is not to be held in time to order the election and give notice of it, the county judge of that county must, upon the petition being called to his attention, timely call a special session of the Commissioners Court for this purpose. Except as herein provided, the election in each county shall be conducted in accordance with the General Laws of the State.

(c) **Proposition to be Voted Upon.** The proposition to be submitted at the election in each county, and to be printed on the ballots, must be:

"FOR the creation of the Rehabilitation District for handicapped persons, with power to levy taxes for residence centers and such other facilities, if any, as the Board of Directors may deem necessary or proper for the training and guidance of such persons and for maintenance and operation of said District.

"AGAINST the creation of the Rehabilitation District for handicapped persons, with power to levy taxes for residence centers and such other

facilities, if any, as the Board of Directors may deem necessary or proper for the training and guidance of such persons and for maintenance and operation of said District."

(d) Voters. Only qualified voters who reside and own taxable property in the county in which they offer to vote and who have duly rendered their property for taxation are eligible to vote.

(e) Results of Election. Within ten (10) days after the election, each Commissioners Court must make a canvass of the returns and declare the results of the election. If a majority of those voting in the election in each county vote for the proposition, the establishment of a Rehabilitation District is thereby effected. If the proposition fails to carry in any county, the formation of the Rehabilitation District in counties in which it passed is not affected, unless the counties in which it passed are not contiguous, or do not have a total assessed valuation of property of Two Hundred Million Dollars (\$200,000,000) according to their most recent tax rolls, in which case no Rehabilitation District can be established.

(f) If the election does not create a Rehabilitation District, no subsequent election for the creation of a Rehabilitation District may be had in the affected counties within one (1) year of the date of the election.

(g) Annexation of New Counties. Any county or combination of counties, contiguous to an existing Rehabilitation District may be annexed to it and become a part of it by following the procedures in and meeting the requirements of Subsections (a), (b), and (d) of this Section, with the following exceptions:

(1) The petition in Subsection (a) of this Section must be signed by a number of qualified property taxpaying voters in each county in which annexation is desired equal to one per cent (1%) of the number of votes cast for Governor in such county at the most recent general election for Governor held therein. The petition must contain the name of the District to which annexation is desired, and must pray for an election to determine whether or not the county shall be annexed to the Rehabilitation District.

(2) Proposition to be Voted Upon. The proposition to be voted upon in an election held under this Subsection, and to be printed on the ballots, must be:

"FOR annexation to (here insert the name of the Rehabilitation District)."

"AGAINST annexation to (here insert the name of the Rehabilitation District)."

(3) The Commissioners Court election order in Subsection (b) of this Section, must set forth the name of the Rehabilitation District to which annexation is proposed; and

(4) Within ten (10) days after the election, the Commissioners Court of each county in which there was an election, must canvass the returns and declare the results of the election in that county, and shall forthwith certify the results of such election to the Board of Directors of such existing District. In each county, if any, in which a majority of those voting at the election vote for the proposition, the annexation of such county to said Rehabilitation District shall be thereby effected.

(5) The provisions of this Act prescribing the qualifications of electors to vote in elections to create such Rehabilitation Districts shall apply to elections for the annexation of counties to such Rehabilitation Districts; and all of the provisions of this Act relating to the number and classes of

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Directors of said Rehabilitation District in each county; the manner of their initial and subsequent selection; the manner of determining the initial terms of office, and fixing the regular terms of office of Directors, as herein set forth concerning the original District, shall be applicable to each annexed county.

Tax collection

Sec. 9. The tax assessors and collectors of each county in a Rehabilitation District must assess and collect taxes on taxable property in the county on levies made and rates fixed by the Board of Directors of that District, not exceeding the rate of five cents (5¢) on each One Hundred Dollars (\$100) of valuation. The valuations assessed on property for State and County taxes must be used as the valuations for District taxes. Each tax collector must collect District taxes at the same time that he collects State and County taxes. All taxes collected for a Rehabilitation District must be accounted for and paid over to the treasurer of that District, and the tax collector must receive the same compensation for assessing and collecting Rehabilitation District taxes as is provided by law for like services rendered for junior college districts.

Suits

Sec. 10. A Rehabilitation District may sue and be sued in its name. In any suit against such District, process may be served on the president or vice president.

Severability clause

Sec. 11. If any provision 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. Acts 1963, 58th Leg., p. 186, ch. 106.

Emergency. Effective May 7, 1963.

Acceptance of funds from Congress for vocational rehabilitation, see art. 2675—1.

Central education agency, see art. 2654—1.

Deaf and blind children, education and maintenance, see art. 2675c—2.

Exceptional children teacher units, foundation school program, see art. 2922—13, § 1(4).

Mentally retarded persons act, see art. 3871b.

Physical restoration service for crippled children, see art. 4419c.

Preschool children with hearing loss, special program, see art. 2654—1a.

Rehabilitation division of state department of education, see art. 2675j.

Special county-wide day schools for deaf scholastics, see art. 3222b.

State commissioner of education, see art. 2654—5.

State schools for mentally retarded, see arts. 3871c, 3871d.

Vocational rehabilitation of the blind, see art. 3207c.

Title of Act:

An Act authorizing establishment of Rehabilitation Districts to provide education, training, special services and guidance for handicapped persons; providing for its financing and administration; and declaring an emergency. Acts 1963, 58th Leg., p. 186, ch. 106.

CHAPTER ELEVEN—COUNTY SCHOOLS

1. TRUSTEES

- Art.
2676a. Election of county board of school trustees in counties of 75,000 to 80,000 [New].
- 2681a. County Industrial Training School Districts [New].
2. SUPERINTENDENT
- 2688g. Counties of 600,000 with 4 or more school districts; election; abolition of office; transfer of duties [New].
- 2688h. Counties of 75,000 to 125,000 and 135,000 to 200,000 population; board of county school trustees

Art.

- and county superintendent; abolition of offices; transfer of duties [New].
- 2688i. Counties of 300,000 to 350,000; county superintendents and county school boards; abolition of offices; transfer of duties [New].
- 2688j. Counties of 16,820 to 16,920; abolition of office; transfer of duties [New].
- 2688k. Counties of 16,000 or more; ex officio school superintendent and county board of education; abolition of offices; transfer of duties [New].

1. TRUSTEES

Art. 2676a. Election of county board of school trustees in counties of 75,000 to 80,000

Section 1. From and after the effective date of this Act in any county in this State having a population of not less than seventy-five thousand (75,000) and not more than eighty thousand (80,000), according to the last preceding Federal Census, the general management and control of the public free schools and high schools in each county unless otherwise provided by law shall be vested in five (5) county school trustees elected from the county, one of whom shall be elected from the county at large by the qualified voters of the county and one from each commissioners precinct by the qualified voters of each commissioners precinct, who shall hold office for a term of two (2) years. The time for such election shall be the first Saturday in April of each year; the order for the election of county school trustees to be made by the county judge at least thirty (30) days prior to the date of said election, and which order shall designate as voting places or places at which votes are cast for the district trustees of said common and independent school districts, respectively. The election officers appointed to hold the election for district trustees in each of said school districts, respectively, shall hold this election for county school trustees.

Sec. 2. It shall be no valid objection that the voters of a commissioners precinct are required by the operation of this Act to cast their ballots at a polling place outside the commissioners precinct of their residence.

Sec. 3. The Commissioners Court of each county within the scope of Section 1 shall appoint county school trustees to serve until the first regularly scheduled election as provided herein.

Sec. 4. All five (5) county school trustees shall be elected at the first regularly scheduled election. Two (2) of the trustees elected at this election shall serve initial terms of one (1) year. Two (2) or three (3) county school trustees shall thereafter be elected, alternately, at each subsequent election. The county school trustees shall draw lots to determine which two (2) shall serve initial terms of one (1) year.

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

Sec. 5. All vacancies occurring between elections shall be filled by appointment of the remaining trustees.

Sec. 6. The county judge of each such county shall continue to perform, without additional compensation, duties formerly constituting the role of the county superintendent. The Commissioners Court shall provide funds for secretarial and stenographic assistance to the county judge in performing these duties.

Sec. 7. The county school trustees shall not detach territory from any independent school district in such county and annex such territory to another independent school district without the prior consent of the school trustees of the district from which such territory is being detached as well as the prior consent of the school trustees of the district to which such detached territory is to be annexed. Acts 1963, 58th Leg., p. 1348, ch. 511.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 1348, ch. 511, § 8, repealed all conflicting laws and parts of laws to extent of conflict.

Art. 2681a. County Industrial Training School Districts

Establishment and location; purpose

Section 1. A district to be known as the "_____ County Industrial Training School District" may be established and located in any county of this State so as to provide vocational training for residents and nonresidents of such county.

Petition and election; trustees

Sec. 2. (a) Upon a petition signed by five per cent (5%) of the resident qualified taxpaying voters in any such county, the Commissioners Court shall call and cause to be held an election within thirty (30) days after said petition has been duly presented for the purpose of electing three (3) members of the board of trustees of such County Industrial Training School District. The three (3) trustees elected shall then appoint four (4) certain persons, one each from the following classes:

(1) a member of the city council of any incorporated city or town located within the county,

(2) a member of the governing body of any other school district in the county,

(3) a juvenile judge for that county,

(4) the County Judge or a member of the Commissioners Court.

(b) These appointive trustees shall be full voting members of the board of trustees; except as herein provided.

(c) All members of such board shall be residents of the county wherein the "_____ County Industrial Training School District" is established.

(d) The first trustees elected for such District shall by lots divide themselves into three (3) classes: Class One (1), consisting of one member, who shall serve for two (2) years; Class Two (2), consisting of one member, who shall serve for four (4) years; and Class Three (3), consisting of one member, who shall serve for six (6) years. Each trustee elected thereafter shall be elected for a term of six (6) years.

(e) The appointive trustees for such District shall serve terms of two (2) years.

(f) Any vacancy occurring on the board shall be filled for the unexpired term by an appointee decided upon by at least two (2) of the elected trustees.

Powers and duties

Sec. 3. In the management and control of the District, the board of trustees is authorized to exercise the following powers and duties:

(1) The board of trustees shall select a chairman of the board and define his duties, and shall have the power to remove him when in its judgment the interest of the District shall require it.

(2) The board of trustees shall appoint other officers of the District, the teaching staff, and other employees, and fix their respective salaries, and shall have the power to remove them when in its judgment the interest of the District shall require it.

(3) The board of trustees shall arrange for and operate whatever facilities they deem necessary for the establishment of any vocational school within said District.

(4) The board of trustees shall enact such bylaws, rules, and regulations as may be necessary for the successful management and government of any vocational school within said District.

(5) The board of trustees shall determine what departments of instruction shall be maintained and what subjects of study shall be pursued in the various departments.

(6) The board of trustees shall have the authority to make proper arrangements by contract with other educational institutions, private individuals, corporate institutions, or the State, for the use of facilities and for the services of qualified personnel; and to make such other arrangements as it deems necessary for the proper training and education of students in the District.

(7) The board of trustees shall have general supervision and control of all expenditures of the District.

(8) The board of trustees shall determine the qualifications for admission of students to any school established by the District.

(9) The board of trustees is authorized and empowered to determine the tuition and/or fees, if any, charged students attending any vocational training school established in the District.

(10) The board of trustees is authorized and empowered to grant diplomas for successful completion of any type of vocational training taught.

(11) The board of trustees is authorized to accept donations, gifts, and endowments for the District to be held in trust and administered by the board for such purposes and under such directions, limitations, and provisions as may be declared in writing in the donation, gift, or endowment, not inconsistent with the objectives and proper management of said District.

(12) The board of trustees may issue revenue bonds (new or refunding) and notes for the purposes of acquiring, constructing, improving and/or equipping buildings, structures, additions to buildings or structures, and other types of permanent improvements not inconsistent with this Act. In addition, the board may fix, charge, collect and pledge to the payment of the principal and interest on any such bonds or notes reasonable use fees from the students for the use of any type of building,

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

structure, facility, or property. The laws governing the issuance of bonds (new or refunding) shall be governed by the laws applicable to school districts located in such counties.

(13) The District is hereby authorized and empowered to levy, assess, and have collected through the county tax office, the rate of tax as set by the board and confirmed by a favoring majority vote of the resident qualified taxpaying voters of such county in an election, except that such rate shall not exceed that provided by law relating to school districts located in such counties upon such property values as established for county purposes, and the election shall be held in compliance with provisions governing such elections.

Compensation

Sec. 4. The board of trustees shall serve without compensation.

Bonds and revenues

Sec. 5. Every such District shall be operated on its bond and/or note revenues, tax revenues, tuition, if any, gifts, donations, and endowments, and shall never become a charge against the State, or require appropriations therefrom.

Counties with vocational or technical high schools

Sec. 5(a). No Industrial Training School District may be established within any county, within which county any school district has established or is in the process of establishing a vocational or technical high school.

Abolition of districts

Sec. 6. Any such District may be abolished in the manner herein provided:

(1) A petition requesting the abolition of the District, signed by at least five per cent (5%) of the qualified voters residing in the District shall be presented to the County Judge of the county in which the District is located.

(2) Upon receipt of such a petition, the County Judge shall:

(a) Issue an order designating the time and place within the district and county of his court at which there shall be held an election to determine whether the District shall be abolished.

(b) Appoint to preside an officer who shall select two (2) judges and two (2) clerks to assist in holding the election.

(c) Cause notice of the election to be given by posting advertisements for at least ten (10) days prior to the date of the election at three (3) public places within such county.

(3) Except as herein provided the election shall be held in the manner prescribed by law for holding general elections.

(a) All persons who are legally qualified taxpaying voters of the State and of the county in which the District is situated and who have resided within the county for at least six (6) months next preceding shall be entitled to vote.

(b) The officers holding the election shall make return thereof to the County Judge within ten (10) days after the election is held.

(4) If a majority of the voters, voting at the election, shall vote to abolish the District, the County Judge shall declare the District abolished

and enter an order to that effect upon the minutes of the Commissioners Court, and from the date of such order, the District shall cease to exist.

(5) Upon abolishment of such District, the Commissioners Court shall manage, control, and dispose of all property belonging to the abolished District, and all taxes from outstanding bonds or other indebtedness, if any, against the property of the abolished District shall remain in full force and effect and shall be levied and collected by the proper officers of the county until the entire indebtedness is fully paid. The Commissioners Court shall have the power to do any and all things necessary for the payment of such bonds or other indebtedness, if any, which the District, or the trustees thereof, could have done had such District not been abolished.

(6) Any creditor of the abolished District may, within sixty (60) days after the District has been abolished, and not thereafter, bring suit in any court of competent jurisdiction, to assert any claim against such District. The Commissioners Court shall institute and defend suits in the name of the abolished District, and may make such settlement of any such litigation as it deems advisable. Acts 1963, 58th Leg., p. 1353, ch. 514.

Effective 90 days after May 24, 1963, date of adjournment.

2. SUPERINTENDENT

Art. 2688g. Counties of 600,000 with 4 or more school districts; election; abolition of office; transfer of duties

(a) The electorate of any county in this State having a population of not less than six hundred thousand (600,000), according to the last preceding Federal Census, and wherein there are four (4) or more common school districts, shall, at the next General Election following the passage of this Act, determine by majority vote whether the office of county superintendent shall be abolished in said county. At such election all ballots shall have printed thereon the following:

"FOR the abolishment of the office of county superintendent."

"AGAINST the abolishment of the office of county superintendent."

(b) Where the majority of the qualified electors approve the abolition of the office of county superintendent in such counties, the duties of such abolished office as may still be required by law shall vest in the county judge in ex officio capacity upon the expiration of the current term of the office of county superintendent. In addition to all other compensation the county judge in such ex officio capacity shall receive a salary to be determined by the county board of school trustees. This additional compensation shall not exceed the maximum amount provided by Article 3888, Vernon's Texas Civil Statutes. Acts 1962, 57th Leg., 3rd C.S., p. 47, ch. 17, § 1.

Effective 90 days after Feb. 1, 1962, date of adjournment.

Art. 2688h. Counties of 75,000 to 125,000 and 135,000 to 200,000 population; board of county school trustees and county superintendent; abolition of offices; transfer of duties

Section 1. (a) From and after the effective date of this Act the office of the county board of school trustees and the office of county superintendent shall cease to exist in any county in this State having a popu-

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

lation of not less than seventy-five thousand (75,000) and not more than one hundred twenty-five thousand (125,000) according to the last preceding Federal Census which has not more than one (1) common school district and whose county ad valorem evaluation is in excess of One Hundred Forty Million Dollars (\$140,000,000); provided, however, that the county superintendents in such counties who have been heretofore elected or appointed to the office of county superintendent shall serve until the expiration of the term for which they were elected or appointed. The duties now performed by the board of school trustees and county superintendents in such counties shall be performed by the county judges of such counties; provided further, that said county judges shall not be entitled to nor receive any additional compensation as a result of these additional duties.

(b) From and after the effective date of this Act the office of the county board of school trustees and the office of county superintendent shall cease to exist in any county in this state having a population of not less than one hundred thirty-five thousand (135,000) and not more than two hundred thousand (200,000) according to the last preceding Federal Census which has no common school district and whose county ad valorem evaluation is in excess of Two Hundred Fifty Million Dollars (\$250,000,000); provided, however, that the county superintendents in such counties who have been heretofore elected or appointed to the office of county superintendent shall serve until the expiration of the term for which they were elected or appointed. The duties now performed by the board of school trustees and county superintendents in such counties shall be performed by the county judges of such counties; provided further, that said county judges may receive additional compensation as a result of these additional duties from county funds, but in any event not to exceed Two Thousand Six Hundred Fifty Dollars (\$2,650) per annum. Acts 1962, 57th Leg., 3rd C.S., p. 170, ch. 63, § 1.

Effective 90 days after Feb. 1, 1962 date of adjournment.

Art. 2688i. Counties of 300,000 to 350,000; county superintendents and county school boards; abolition of offices; transfer of duties

Section 1. From and after the effective date of this Act the duties now performed by county superintendents and county school boards in all counties in this State having a population of not less than three hundred thousand (300,000) nor more than three hundred and fifty thousand (350,000), according to the last preceding Federal Census, shall be performed by the county judges of such counties, and the offices of county superintendent and county school board, as such, shall cease to exist.

Sec. 2. In counties coming under the provisions of this Act, the county judges shall receive and retain for their services in performing the duties of county superintendents of public instruction and county school boards, in addition to all other compensation provided by law, an amount of Five Hundred Dollars (\$500) per year as total compensation for salary, office and travel expense. Acts 1963, 58th Leg., p. 3, ch. 3.

Emergency. Effective Feb. 13, 1963.

Art. 2688j. Counties of 16,820 to 16,920; abolition of office; transfer of duties

(a) Subject to the limitations stated in Paragraph (b) the office of county superintendent in all counties of this state having a population of not less than sixteen thousand, eight hundred and twenty (16,-

820) and not more than sixteen thousand, nine hundred and twenty (16,920) according to the last preceding Federal Census, is abolished and the duties of such office shall be performed by the county judge as ex officio county superintendent. The county judge may be compensated for performing such duties in an amount not to exceed Six Hundred Dollars (\$600) per annum as determined by the County Board of School Trustees and such board may provide for an assistant to the ex officio county superintendent at a yearly salary not to exceed Three Thousand Seven Hundred and Twenty Dollars (\$3,720); such position not to extend beyond August 31, 1966. Such additional compensation, if any, paid the ex officio county superintendent or the salary paid the assistant herein authorized shall be paid out of the State Available School Fund.

(b) The county superintendents holding office in such counties as of the effective date of this Act shall serve until the expiration of the term for which they were elected. However, if a vacancy should occur before the expiration of such term, the office of county superintendent shall cease to exist and the duties of such office shall thereafter be performed as provided for in Paragraph (a) above. Acts 1963, 58th Leg., p. 589, ch. 212, § 1.

Emergency. Effective May 24, 1963.

Art. 2688k. Counties of 16,000 or more; ex officio school superintendent and county board of education; abolition of offices; transfer of duties

Section 1. In all counties in this state having a population of sixteen thousand (16,000) or more, according to the last preceding Federal Census, and having no Common School District and only one Independent School District, the offices of the Ex Officio School Superintendent and County Board of Education is hereby abolished, effective as of the expiration of the current term of the incumbent Ex Officio School Superintendent.

Sec. 2. All duties and functions, except as hereafter provided, that are now required by law of the office of Ex Officio County School Superintendent, shall be performed by the Superintendent of the Independent School District, and all the duties that may now be required by law of the County Board of Education shall be performed by the elected Board of Trustees of such Independent School District, except that the County Judge shall, without pay from the State of Texas, continue to approve or disapprove application for school transfers to other schools outside of the county. The Commissioners Court shall hereafter receive, hear and pass upon all petitions for the calling of elections for the creation, change or abolishment of County School Districts and all authorized appeals from the Independent School Board of Trustees shall be made directly to the State Board of Education or to the courts as provided by law.

Sec. 3. All School Records of the original Independent and/or Common School District, shall be transferred to the control and custody of the Independent School District Office, save and except the original financial records which shall be retained by the County Treasurer, and thereafter the County Judge shall be required to make no records or reports but said reports shall be made by the Superintendent of such Independent School District; that as soon as practicable after the effective date of this Act, all remaining state funds in the hands of the County Board of Education shall be transferred by the County Treasurer and the County Judge to the County Independent School District's Administration Account. Acts 1963, 58th Leg., p. 1150, ch. 446.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER TWELVE—COUNTY UNIT SYSTEM

Art. 2724. Local revenue and taxation

Audit of records of funds handled by department of education in counties of 1,200,000 or more, see art. 2919g—1.

Art. 2725. Election for revenue

Voting places for elections held by department of education in counties of 1,000,000 people and

which have average daily attendance of more than 2,000 pupils, see art. 2815a—1.

CHAPTER THIRTEEN—SCHOOL DISTRICTS

1. COMMON SCHOOL DISTRICTS

Art.

2742f—2. Detachment of territory; approval of trustees of certain districts with population of 120,000 to 140,000 [New].

2752a. Competitive bidding [New].

2756d. Appointment of tax assessor-collector and board of equalization in certain common school districts [New].

2. INDEPENDENT DISTRICTS IN TOWN

2766c. Change of boundaries; independent districts in counties of 36,799 to 38,500 having 500 scholastics [New].

2767h. Validation of independent districts having less than 200 scholastics [New].

3. INDEPENDENT DISTRICTS IN CITIES

2775a—3. Election of trustees by separate positions in districts within counties of 7,750 to 7,800 and 13,400 to 13,600 population [New].

2775a—4. Election of trustees by separate positions in districts within counties of 8,500 to 9,000 population [New].

2775e. Election of trustees in certain counties of 75,000 to 80,000, terms [New].

4. TAXES AND BONDS

2784e—5. Additional tax for common school districts in counties of 12,300 to 12,400 population [New].

2784e—6. Additional tax for certain common or independent school districts in counties of 21,500 to 21,800 population [New].

Art.

2784g—1. Bond and maintenance tax in certain independent districts in counties of 75,000 to 80,000 population [New].

2784h. Maintenance tax rate in common school districts in counties of 68,000 to 73,000; validation [New].

5. ADDITIONS AND CONSOLIDATIONS

2815—4. Incentive aid payments to independent school districts created through consolidation [New].

6. DISTRICTS IN LARGE COUNTIES

2815a—1. Voting places for elections held by independent districts in counties of more than 1,000,000 [New].

2815g—1c. Election of trustees of independent districts in counties with population of more than 1,200,000 and fewer than 175,000 scholastics; date [New].

2815g—56. Validation of districts; resolutions; orders and ordinances for divorcement or separation from municipal control; bonds; boundaries [New].

2815g—57. Validation of districts; acts of trustees; additions of territory; elections; bonds; boundaries; taxes; exceptions [New].

7. JUNIOR COLLEGES

2815h—11. Validation of acts relating to bonds, bond elections and bond taxes [New].

2815o—1b. Terms of office of boards of regents [New].

2815p—1. Disannexation of overlapped territory [New].

2815q—1. Abolition of junior college districts [New].

1. COMMON SCHOOL DISTRICTS

Art. 2742f-2. Detachment of territory; approval of trustees of certain districts with population of 120,000 to 140,000

Section 1. This Act shall apply to any independent school district having an assessed valuation of less than Five Million Dollars (\$5,000,000) located in any county having a population of not less than one hundred and twenty thousand (120,000), and not more than one hundred and forty thousand (140,000), according to the last preceding Federal Census.

Sec. 2. Before any part of the territory of any independent school district to which this Act applies may be detached, in addition to the requirements of Chapter 47, Acts of the Forty-first Legislature, First Called Session, 1929, as amended by Section 1, Chapter 140, Acts of the Forty-second Legislature, 1931 (compiled as Article 2742f, Vernon's Texas Civil Statutes), the board of trustees of such district must approve the detachment by majority vote.

Sec. 3. Should a majority of the board of trustees of such district approve a proposed detachment of territory from such district, the petition provided for in Chapter 47, Acts of the Forty-first Legislature, First Called Session, 1929, as amended by Section 1, Chapter 140, Acts of the Forty-second Legislature, 1931 (compiled as Article 2742f of Vernon's Texas Civil Statutes), shall be signed by a majority of the board of trustees of the district.

Sec. 4. In addition to the petition, the county board of trustees must have the written approval of the proposed detachment of territory by a majority of the board of trustees of the district prior to the detachment of territory from the district. Acts 1963, 58th Leg., p. 701, ch. 258.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 701, ch. 258, § 5, repealed all conflicting laws and parts of laws.

Art. 2745c. Time for filing application as candidate for trustee; preparation of ballot

Sec. 1a. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(c).

Effective 90 days after May 24, 1963, date of adjournment.

derived from Acts 1961, 57th Leg., p. 1010, ch. 440, § 1. See, now, V.A.T.S. Election Code, art. 5.05 et seq.

Section 1a, authorizing use of voting machines for the casting of absentee votes, was

Art. 2746a. 2820 Official ballot

Time for filing application as candidate for trustee and preparation of ballot, see art. 2745c.

Art. 2746c. Joint elections of governing bodies of school districts

Voting places for elections held by independent districts which are located in counties of more than 1,000,000 people and which

have average daily attendance of more than 2,000 pupils, see art. 2815a-1.

Art. 2752a. Competitive bidding

All contracts proposed to be made by any Texas public school board for the purchase of any property, real or personal, shall be submitted to competitive bidding when said property is valued at One Thousand Dollars

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(\$1,000) or more. All contracts proposed to be made by any Texas public school board for the construction, maintenance, repair or renovation of any building or for materials used in said construction, maintenance, repair or renovation, shall be submitted to competitive bidding when said contracts involve One Thousand Dollars (\$1,000) or more. Nothing in this Act shall apply to fees received for professional services rendered, including but not limited to architects fees, attorney's fees, and fees for fiscal agents. Notice of the time when and place where such contracts will be let and bids opened shall be published in the county where the purchasing school is located once a week for at least two (2) weeks prior to the time set for letting said contract and in two (2) other newspapers that the school board may designate. Provided, however, that on contracts involving less than Twenty-five Thousand Dollars (\$25,000) such advertising may be limited to two (2) successive issues of any newspaper published in the county in which the school is located, and if there is no newspaper in the county in which the school is located, then said advertising shall be for publication in some newspaper in some county nearest the county seat of the county in which the school is located. Added Acts 1963, 58th Leg., p. 953, ch. 378, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Requirements governing advertising for bids by counties, see art. 2368a.

Art. 2756b. Independent school districts on military reservations

Abolishment of districts created hereunder and of authority granted hereunder, see art. 2756c.

Art. 2756c. Abolition of school districts; authority to annex territory of military reservations

Sec. 3. Any authority heretofore vested in the State Board of Education under Senate Bill No. 274, Acts of 44th Legislature, Regular Session, as construed by the Texas Supreme Court in *Central Education Agency v. Independent School District of the City of El Paso*, No. A-3666, to annex or attach the territory of a military reservation to another school district is hereby abolished. Provided, however, any territory of a military reservation which is subject to the same post or base command as is that of a military reservation used for the purpose of housing dependents of military and civilian personnel and which wholly contains an independent school district whether or not such reservations are contiguous may be annexed to that independent school district by the State Board of Education pursuant to a petition by that post or base commander. Provided further, however, that whenever any territory of a military reservation shall have been annexed by the State Board of Education to an independent school district of the same post or base command pursuant to the authority and provisions hereof, and thereafter the said territory shall cease to be used for the purpose of housing dependents of military and civilian personnel, the State Board of Education, upon the petition of the post or base command, or upon the petition of a majority of the trustees of the school district from which said territory was originally detached, shall have the authority to detach said territory from the military reservation constituting an independent school district and annex same to the school district from which it was originally detached thereby restoring said territory to its original status. Any territory of a military reservation heretofore attached, annexed or included in another school district by order of the State Board of Education and now recognized and treated by that school district as a part of its school district territory is hereby vali-

dated. Acts 1953, 53rd Leg., p. 834, ch. 337, as amended Acts 1963, 58th Leg., p. 482, ch. 171, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2756d. Appointment of tax assessor-collector and board of equalization in certain common school districts

Section 1. In all common school districts in this State having a scholastic population, according to the last preceding scholastic census, of seventy (70) or more but less than one hundred forty-nine (149) and an assessed valuation of Three Hundred Fifty Thousand Dollars (\$350,000) or more but less than One Million, Eight Hundred Twenty-five Thousand Dollars (\$1,825,000) and located in a county having a total population of one hundred thousand (100,000) or more, according to the last preceding Federal Census, and in all common school districts in this State having an assessed valuation of Seven Hundred Forty Thousand Dollars (\$740,000) or more, but less than One Million, Five Hundred Thousand Dollars (\$1,500,000) and located in a county having a population of more than seven thousand, three hundred and ten (7,310) but less than seven thousand, nine hundred and twenty (7,920) according to the last preceding Federal Census, the Board of Trustees shall be authorized, by a majority vote of the qualified property tax-paying voters in the district, at a regular election in the district or at a special election called for that purpose, to appoint a tax assessor-collector and a board of equalization for the district.

Sec. 2. The Board of Trustees of each such district may appoint such person as they deem qualified to be assessor-collector of taxes, who shall assess the taxable property within the limits of the district within the time and manner provided by existing laws, insofar as they are applicable, and collect such tax. He shall receive such compensation for his services as the Board of Trustees may allow. Such assessor-collector shall give bond, to be executed by a surety company authorized to do business in the State of Texas, in an amount to be determined by the Board of Trustees which will in the opinion of such board be sufficient to adequately protect the funds of the school district. Such bond shall be payable to the president of the Board of Trustees of the district, approved by the board, and conditioned on such assessor-collector's depositing in the county depository to the credit of such common school district all funds coming into his hands by virtue of his office, and shall also be conditioned on the faithful discharge of his duties. In all matters regarding the assessment and collection of taxes by common school districts adopting the provisions of this Act, the laws relating to the assessment and collection of taxes in independent school districts shall govern insofar as they are not inconsistent with the provisions of this Act.

Sec. 3. The board of equalization of such common school districts shall be composed of three (3) members appointed by the Board of Trustees. It shall be composed of legally qualified property tax-paying voters residing in said district and shall have the same power and authority and be subject to the same restrictions that now govern such boards in independent school districts. Acts 1963, 58th Leg., p. 974, ch. 397.

Effective 90 days after May 24, 1963, date of adjournment.

Appointment of assessor-collector in independent school districts, see art. 2779b.

Board of equalization; assessor and collector of taxes in certain independent school districts, see art. 2792b.

County or city assessor and collector for independent district, see art. 2792.

Election of tax assessors and collectors in independent school districts in counties of 19,220 to 19,240 and 51,325 to 54,200, see art. 2779a.

Independent district assessor and collector, see art. 2791.

2. INDEPENDENT DISTRICTS IN TOWN

Art. 2757. 2851—54 Incorporation of town

Validation of independent districts created under this article having less than 200 scholastics, see art. 2767h.

Art. 2758. 2852—3 Board of trustees

Establishment of board of trustees in independent school districts, see art. 2775d. Joint elections of governing bodies of school districts, see art. 2746c.

Art. 2766c. Change of boundaries; independent districts in counties of 36,799 to 38,500 having 500 scholastics

Section 1. In all counties in this state having a population of not less than 36,799 and not more than 38,500, according to the last preceding Federal Census, the territory of any independent school district therein having a scholastic population of more than 500 shall not be changed without the consent of its Board of Trustees. Such consent shall be evidenced by an appropriate resolution of the Board of Trustees of such district properly certified by its secretary, and filed with the County Clerk of the county in which such school district is situated. Such resolution shall be recorded in the "Record of School Districts," or in the Deed Records of said county, as may be appropriate. Acts 1963, 58th Leg., p. 53, ch. 35.

Emergency. Effective March 30, 1963.

Art. 2767. Abolishing districts

Abolition of junior college districts, see art. 2815q—1.

Art. 2767h. Validation of independent districts having less than 200 scholastics

Section 1. That all independent school districts created under the provisions of Article 2757, Revised Civil Statutes of Texas of 1925, as amended, having less than two hundred (200) scholastics as shown by the last preceding scholastic census roll approved in the State Department of Education, and located in counties having two or more artificial lakes constructed by the United States of America, under the direction of the United States Army Corps of Engineers, are hereby in all things validated in all respects as though they had been legally and duly established in the first instance, and the boundary lines of all such independent school districts are likewise validated.

Sec. 2. On and after the effective date of this Act, no changes of boundaries of such districts shall be made or effected by order of the county board of school trustees, unless and until the petition or proposal or order seeking to make such change has previously been approved by a majority vote of the Board of Trustees of such respective independent school district.

Sec. 3. This Act shall not validate any independent school districts now involved in litigation questioning the validity of any matters hereby validated, if such litigation is ultimately determined against the validity of the same. Acts 1963, 58th Leg., p. 767, ch. 294.

Emergency. Effective May 30, 1963.

3. INDEPENDENT DISTRICTS IN CITIES

Art. 2775. 2886 Election

Voting places for elections held by independent districts which are located in counties of more than 1,000,000 people and

which have average daily attendance of more than 2,000 pupils, see art. 2815a—1.

Art. 2775a. Election of trustees in counties of 800,000 population

Election of trustees of independent districts in certain counties of 1,200,000 or more population, see art. 2815g—1c.

Art. 2775a—1. Election of trustees by separate positions in independent districts of 1,000 or more scholastics

Section 1. In all independent school districts, whether created under the General Laws or by Special Act of the Legislature, having one thousand (1,000) or more scholastics according to the last scholastic census, in which the candidates for school trustee are not voted on and elected by separate positions under some other applicable statute, the Board of Trustees of any such independent school district may, by appropriate action taken at least sixty (60) days prior to the first election of school trustees after the effective date of this Act, order that all candidates for school trustee be voted upon and elected separately for positions on the Board of Trustees and all candidates shall be designated on the official ballots according to the number of the position to which they seek election. At least sixty (60) days prior to the first election which is governed by this Act in each district now or hereafter coming within its provisions, the Board of Trustees shall number the positions in the order in which the terms of office expire, the expiring terms which are to be filled at the first election to be numbered Position No. 1, Position No. 2, and so on, and the next succeeding terms expiring to take the next larger numbers, until all of the positions have been numbered. Thereafter, any candidate offering himself for a position as trustee of such district in any election shall indicate the number of the position for which he desires to run, and his application for a place on the ballot shall disclose the position number for which he is a candidate or the name of the incumbent member holding the position for which he desires to run. The names of the candidates for each position shall be arranged by lot by the Board of Trustees of the district. Once the Board of Trustees of an independent school district shall have adopted the foregoing procedure for elections, said Board of Trustees or their successors may not rescind the action which adopted the foregoing procedure. As amended Acts 1963, 58th Leg., p. 719, ch. 262, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2775a—3. Election of trustees by separate positions in districts within counties of 7,750 to 7,800 and 13,400 to 13,600 population

Section 1. This Act shall apply to all independent school districts which are situated in counties having a population of more than seven thousand seven hundred fifty (7,750) but less than seven thousand eight hundred (7,800), according to the last preceding Federal Census, and having a district valuation of not less than Twenty-five Million Dollars (\$25,000,000), according to the last preceding valuation and to all independent school districts which are situated in counties having a population of more than thirteen thousand four hundred (13,400) but less than

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thirteen thousand six hundred (13,600) according to the last preceding Federal Census, and having a district valuation of not less than One Hundred Thirty Million Dollars (\$130,000,000).

Sec. 2. In all independent school districts falling within the provisions of Section 1 in which the candidates for school trustee are not voted on and elected by separate positions under some other applicable Statute, the Board of Trustees of any such independent school district may, by appropriate action, taken at least sixty (60) days prior to the first election of school trustees after the effective date of this Act, order that all candidates for school trustee be voted upon and elected separately for positions on the Board of Trustees and all candidates shall be designated on the official ballots according to the number of the position to which they seek election. At least sixty (60) days prior to the first election which is governed by this Act in each district now or hereafter coming within its provisions, the Board of Trustees shall number the positions in the order in which the terms of office expire, the expiring terms which are to be filled at the first election to be numbered Position No. 1, Position No. 2, and so on, and the next succeeding terms expiring to take the next larger numbers, until all of the positions have been numbered. Thereafter, any candidate offering himself for a position as trustee of such district in any election shall indicate the number of the position for which he desires to run, and his application for a place on the ballot shall disclose the position number for which he is a candidate or the name of the incumbent member holding the position for which he desires to run. The names of the candidates for each position shall be arranged by lot by the Board of Trustees of the district. Once the Board of Trustees of an independent school district shall have adopted the foregoing procedure for elections, said Board of Trustees or their successors may not rescind the action which adopted the foregoing procedure.

Sec. 3. This Act shall not repeal or affect any other Statute providing for the election of school trustees by position number. All other laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict only. Acts 1963, 58th Leg., p. 630, ch. 233.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2775a—4. Election of trustees by separate positions in districts within counties of 8,500 to 9,000 population

In all independent school districts in counties having a population of not less than eight thousand, five hundred (8,500) nor more than nine thousand (9,000) according to the last preceding Federal Census, whether created under the General Laws or by Special Act of the Legislature, in which the candidates for school trustee are not voted on and elected by separate positions, the Board of Trustees of any such independent school district may, by appropriate action taken at least sixty (60) days prior to the first election of school trustees after the effective date of this Act, order that all candidates for school trustee be voted upon and elected separately for positions on the Board of Trustees and all candidates shall be designated on the official ballots according to the number of the position to which they seek election. At least sixty (60) days prior to the first election which is governed by this Act in each district now or hereafter coming within its provisions, the Board of Trustees shall number the positions in the order in which the terms of office expire, the expiring terms which are to be filled at the first election to be numbered Position No. 1, Position No. 2, and so on, and the next succeeding terms expiring to take the next larger

numbers, until all of the positions have been numbered. Thereafter, any candidate offering himself for a position as trustee of such district in any election shall indicate the number of the position for which he desires to run, and his application for a place on the ballot shall disclose the position number for which he is a candidate or the name of the incumbent member holding the position for which he desires to run. The names of the candidates for each position shall be arranged by lot by the Board of Trustees of the district. Once the Board of Trustees of an independent school district shall have adopted the foregoing procedure for elections, said Board of Trustees or their successors may not rescind the action which adopted the foregoing procedure. Acts 1963, 58th Leg., p. 1006, ch. 413, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2775b. Election of trustees in counties of 110,000 to 800,000; terms; vacancies

Election of trustees of independent districts in certain counties of 1,200,000 or more population, see art. 2815g-1c.

Art. 2775e. Election of trustees in certain counties of 75,000 to 80,000; terms

In all counties with a population of not less than seventy-five thousand (75,000) and not more than eighty thousand (80,000), according to the last preceding Federal Census, where two Independent School Districts of more than five hundred (500) scholastics have been consolidated, the seven (7) member Board of Trustees of said consolidated district as provided by law shall be elected by position.

Candidates for Positions 1, 3, and 5 shall be residents of an area of which was at the time of consolidation, a part of the larger district and candidates for Positions 2 and 4 shall be residents of an area which was at the time of consolidation a part of the smaller district. Candidates for Positions 6 and 7 may live in any area of the consolidated district.

Terms of office for Positions 1 and 2 of said Board shall apply to those trustees elected in 1961, and their successors in office, terms of office for Positions 3 and 4 would apply to those trustees elected in 1962, and their successors in office and terms of office for Positions 5, 6, and 7 would apply to those trustees elected in 1963, and their successors in office.

The Board of Trustees of such consolidated district, shall at the next meeting after the effective date of this Act, designate in the minutes of said meeting the names of Board members who then fill each of said Positions.

Nothing herein contained is to conflict with the powers, duties, terms of office and responsibilities of trustees of Independent School Districts. Acts 1962, 57th Leg., 3rd C.S., p. 61, ch. 23, § 1.

Emergency. Effective Feb. 9, 1962.

Title of Act:

An Act providing the mode of election of certain school trustees in all counties containing a population of not less than

seventy-five thousand (75,000) and not more than eighty thousand (80,000) according to the last preceding Federal Census; and declaring an emergency. Acts 1962, 57th Leg., 3rd C.S., p. 61, ch. 23, § 1.

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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

Appointment of tax assessor-collector and board of equalization in certain common school districts, see art. 2756d.

Art. 2779b. Appointment of assessor-collector for three years; bond

Appointment of tax assessor-collector and board of equalization in certain common school districts, see art. 2756d.

4. TAXES AND BONDS

Art. 2784e—5. Additional tax for common school districts in counties of 12,300 to 12,400 population

Section 1. The Commissioners Court for the common school districts in all counties having a population of not less than twelve thousand, three hundred (12,300) persons nor more than twelve thousand, four hundred (12,400) persons, according to the last preceding Federal Census, may levy and cause to be collected a tax, in addition to that authorized under Section 1, Chapter 304, Acts of the Forty-ninth Legislature, 1945, as amended (compiled as Article 2784e of Vernon's Annotated Revised Civil Statutes of Texas) and authorized under Section 1 of Chapter 528, Acts of the Fifty-fourth Legislature, 1955, as amended (compiled as Section 1 of Article 2784e—1 of Vernon's Annotated Revised Civil Statutes of Texas), not to exceed One Dollar (\$1) on the One Hundred Dollar valuation of taxable property of the district for the maintenance and use of the schools therein. The limitation imposed by Subsection 3, Section 1, Chapter 304, Acts of the Forty-ninth Legislature, 1945, as amended (compiled as Section 3, Article 2784e of Vernon's Annotated Revised Civil Statutes of Texas), shall not apply to the additional tax provided for in this Section and the tax provided for in this Section shall be in addition to that limit.

Sec. 2. No tax shall be levied, collected, abrogated, diminished or increased hereunder until such action has been authorized by a majority of the votes cast at an election held in the district for such purposes, at which none but property taxpaying qualified voters of such district shall be entitled to vote. Acts 1963, 58th Leg., p. 148, ch. 89.

Emergency. Effective April 30, 1963.

Title of Act:

An Act relating to an additional tax for common school districts in certain coun-

ties; providing a severability clause; and declaring an emergency. Acts 1963, 58th Leg., p. 148, ch. 89.

Art. 2784e—6. Additional tax for certain common or independent school districts in counties of 21,500 to 21,800 population

Section 1. The Commissioners Court for any common or independent school district having a scholastic population of five hundred (500) or less, according to the last preceding scholastic census, and lying within a county having a population of twenty-one thousand, five hundred (21,500) or more but less than twenty-one thousand, eight hundred (21,800), according to the last preceding Federal Census, may levy and cause to be collected a tax, in addition to that authorized under Section 1, Chapter 304, Acts of the Forty-ninth Legislature, 1945, as amended (compiled as Article 2784e of Vernon's Annotated Revised Civil Statutes), not to exceed twenty-five cents (25¢) on the One Hundred Dollar (\$100) valuation of taxable property of the district for the maintenance and use

of the schools therein. The limitation imposed by Subsection 3, Section 1, Chapter 304, Acts of the Forty-ninth Legislature, 1945, as amended (compiled as Section 3, Article 2784e of Vernon's Annotated Revised Civil Statutes of Texas), shall not apply to the additional tax provided for in this Section and the tax provided for in this Section shall be in addition to that limit.

Sec. 2. No tax shall be levied, collected, abrogated, diminished, or increased hereunder until such action has been authorized by a majority of the votes cast at an election held in the district for such purposes, at which none but property taxpaying qualified voters of such district shall be entitled to vote. Acts 1963, 58th Leg., p. 160, ch. 98.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2784g. Bond and maintenance tax rate in certain districts in county with population of 700,000 or more

Borrowing money for current maintenance expenses, see art. 2827c.

Art. 2784g-1. Bond and maintenance tax in certain independent districts in counties of 75,000 to 80,000 population

Section 1. Any independent school district having an assessed valuation for school tax purposes of Four Million, Two Hundred and Fifty Thousand Dollars (\$4,250,000) or more but less than Six Million Dollars (\$6,000,000), and lying within a county having a population of seventy-five thousand (75,000) or more but less than eighty thousand (80,000), according to the last preceding Federal Census, shall have the power, when authorized by an election held for that purpose, to levy, assess and collect an ad valorem tax not to exceed Two Dollars (\$2) per One Hundred Dollar (\$100) valuation of all taxable property located in such school district or having its taxable situs therein in order to pay the current interest and maturities of bonds issued and to be issued by the district and for the further maintenance of the public free schools therein.

Sec. 2. 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 in the district for such purposes, at which none but property taxpaying qualified voters of such district who own taxable property therein and who have duly rendered it for taxation shall be entitled to vote. All such elections shall be held, and all of such taxes shall be levied, assessed and collected, by the same officers and in the same time, form and manner as now authorized. Acts 1963, 58th Leg., p. 805, ch. 308.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2784h. Maintenance tax rate in common school districts in counties of 68,000 to 73,000; validation

Section 1. All actions and proceedings of common school districts in counties with a population of not less than sixty-eight thousand (68,000) nor more than seventy-three thousand (73,000) according to the last preceding Federal Census including all actions and proceedings relating to any increase in the local maintenance tax rate, are hereby in all things validated.

Sec. 2. This Act shall have no application to any such districts involved in litigation now pending in any court of competent jurisdiction in

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this State on the effective date hereof questioning the validity of matters hereby validated if such litigation is ultimately determined against the validity of the same. Acts 1963, 58th Leg., p. 145, ch. 86.

Emergency. Effective April 30, 1963.

Borrowing money for current maintenance expenses, see art. 2827c.

Art. 2786. Bonds

Whenever the proposition to issue bonds is to be voted on in any Common or Independent School District hereunder, the petition, election order and notice of election must distinctly specify the amount of the bonds, the rate of interest, that the bonds shall mature serially or otherwise in such installments as are fixed by the board of trustees if for an Independent School District, or by the Commissioners Court if for a Common School District, and the purpose for which the bonds are to be used. The ballots for such election shall have written or printed thereon the words:

For the issuance of bonds and the levying of the tax in payment thereof"; and

Against the issuance of bonds and the levying of the tax in payment thereof."

Such bonds shall bear not more than five per cent interest per annum and shall mature over a period of not exceeding forty years from their date. Such bonds shall be examined by the Attorney General and if approved, registered by the Comptroller. All bonds shall be sold to the highest bidder for not less than their par value and accrued interest, and the proceeds of such sale shall be deposited in the county depository for the Common School Districts, and in the district depository for the Independent School Districts, to the credit of such districts, and shall be disbursed only for the purpose for which the said bonds were issued, on warrants issued by the district trustees and approved by the county superintendent, in counties where such office exists, for Common School Districts, and by the president of the Board of Trustees and countersigned by the secretary of the said board for Independent School Districts. As amended Acts 1957, 55th Leg., 2nd C.S., p. 160, ch. 6, § 1; Acts 1963, 58th Leg., p. 893, ch. 338, § 1.

Emergency. Effective May 31, 1963.

Art. 2786e. Interest bearing time warrants

Purposes; issuance; payment

Section 1. Any school district in the State of Texas in need of funds to repair or renovate school buildings; purchase school buildings and school equipment; to equip school properties with necessary heating, water, sanitation, lunchroom and electric facilities; or is in need of funds with which to employ an individual firm or corporation deemed to have special skill and experience to compile taxation data for use by its board of equalization; and said school district is financially unable out of available funds to make such repairs, renovations of school buildings, purchase school buildings, purchase school equipment, to equip school properties with necessary heating, water, sanitation, lunchroom or electric facilities or is unable to pay such individual or corporation for the performance of the professional duties hereinabove mentioned, may, subject to the provisions hereof, issue interest-bearing time warrants, in amounts sufficient to make such purchase and improvements, to pay all or part of the compensation of such individual, firm or corporation to compile such data, any law to the contrary notwithstanding. Such warrants shall mature in serial in-

stallments of not more than five (5) years from their date of issue, and to bear interest at a rate not to exceed six per centum (6%) per annum. Such warrants shall upon maturity be payable out of any available funds of such school district in the order of their maturity dates. Any such interest-bearing time warrants so issued may be issued and sold by such district for not less than their face value, and the proceeds thereof used to provide funds required for the purpose for which they are issued. Such warrants shall be entitled to first and prior payment out of any available funds of such district as they become due. Included in such purposes is the payment of any amounts owed by said school districts, which indebtedness was incurred in carrying out any of such purposes. As amended Acts 1963, 58th Leg., p. 957, ch. 382, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2790a—5. Maintenance tax elections and proceedings validated

Borrowing money for current maintenance expenses, see art. 2827c.

Art. 2791. 2861 Independent district assessor and collector

Appointment of tax assessor-collector and board of equalization in certain common school districts, see art. 2756d.

Art. 2792. 2862 County or city assessor and collector for independent district

Appointment of tax assessor-collector and board of equalization in certain common school districts, see art. 2756d.

5. ADDITIONS AND CONSOLIDATIONS**Art. 2806. Election to consolidate**

Voting places for elections held by independent districts which are located in counties of more than 1,000,000 people and

which have average daily attendance of more than 2,000 pupils, see art. 2815a—1.

Art. 2815—4. Incentive aid payments to independent school districts created through consolidation

Section 1. From the effective date of this Act independent school districts hereafter created through consolidation may qualify for Incentive Aid Payments by the State of Texas; provided, however, no school district may receive such payments for a period of more than ten (10) years. Such Incentive Aid Payments shall be made only upon application to the Texas Education Agency and in compliance with the terms and conditions contained in this Act.

A. The amount of Incentive Aid Payments shall not exceed the difference between the sum of the Foundation Program Payments which would have been paid to the several districts included in the newly organized district had there been no consolidation, and the amount of Foundation Program Assistance for which the new district qualifies.

B. The new district created through consolidation shall contain not fewer than seven hundred and fifty (750) children in average daily attendance or a majority of the children in average daily attendance in the county containing the majority of the land area involved in the reorganization.

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C. The Incentive Aid Payments shall be used exclusively to retire the existing bonded indebtedness of the school districts which have been consolidated, or shall be applied to the cost of constructing new buildings required by the reorganized district.

D. The Incentive Aid Payments shall be reduced in direct proportion to any reduction in the annual average daily attendance of the reorganized school district for the preceding year.

"Consolidation" for purposes of this Act, shall mean and have application to creation of new districts by election under school district consolidation laws and/or by enlargement of existing districts by annexation thereto of entire contiguous district or districts, other than dormant districts, under annexation laws, and where the district consolidated by election or enlarged by annexation under such laws results as an independent school district.

Sec. 2. As a condition precedent to receiving Incentive Aid Payments (a) the geographical limits of the proposed consolidated district shall be submitted to the Texas Education Agency for approval and the geographical limits so approved shall be set forth in the petition for any consolidation election; and (b) the consolidation of the school districts shall result in the formation of an independent school district.

Sec. 2a. The cost of Incentive Aid Payments hereby authorized shall be paid from the Foundation School Fund. Such costs shall be considered and included by the Foundation School Fund Budget Committee in estimating the funds needed for purposes of the Foundation School program and such Incentive Aid Payments. Acts 1963, 58th Leg., p. 931, ch. 361.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 931, ch. 361, § 3 provided: "All laws or parts of laws in conflict with this Act are hereby expressly repealed to the extent of such conflict

only, but this Act shall be cumulative of all other laws or parts of laws not directly in conflict herewith."

Central education agency, see art. 2654—1.

6. DISTRICTS IN LARGE COUNTIES

Art. 2815a—1. Voting places for elections held by independent districts in counties of more than 1,000,000

In all counties in this State which have a population of more than one million (1,000,000) people, according to the last preceding Federal Census, every election held for any purpose by an independent school district which has an average daily attendance of more than two thousand (2,000) pupils, but less than two thousand, five hundred (2,500) pupils, according to the last preceding scholastic census, and which has two (2) or more county voting precincts within its boundaries, shall be held in each of the voting precincts at the places used in the General Elections of this State. Acts 1963, 58th Leg., p. 1276, ch. 490, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act providing for the voting places for all elections held by certain independ-

ent school districts in certain counties in this State; and declaring an emergency. Acts 1963, 58th Leg., p. 1276, ch. 490.

Art. 2815g—1c. Election of trustees of independent districts in counties with population of more than 1,200,000 and fewer than 175,000 scholastics; date

Section 1. This Act shall apply to all independent school districts, whether created by General Law or special Act, in counties having a population of more than one million, two hundred thousand (1,200,000), according to the last preceding Federal Census, except those independent districts having a scholastic population of one hundred seventy-five thousand (175,000), according to the last preceding scholastic census, and which were created by special Act of the Legislature and which operate under the provisions of that Act; provided, however, that this Act shall not apply to any district unless and until the board of trustees thereof adopts by majority vote an order or resolution adopting the provisions thereof. The board of trustees of said independent districts may adopt an order or resolution adopting all or any one or more of the provisions hereof, then thereafter for a period of three (3) successive years all trustee elections in such district shall be held and governed by the terms and provisions thereof.

Sec. 2. Hereafter, the trustees of any independent school district coming within the purview of Section 1 hereof may order by official resolution the election for the purpose of electing school trustees held on any one of the following dates: the first Saturday in April or the first Saturday in October. The board of trustees shall adopt and make public the resolution setting the date of the election at least sixty (60) days prior to said election. Except for the special provisions contained here, the General Laws applying to such elections shall govern.

Sec. 3. After the effective date of this Act the board of trustees of any independent school district coming within the purview of Section 1 hereof may adopt an order or resolution providing for the election of trustees by majority vote in accordance with the following provisions:

(1) The order or resolution providing for the election of trustees by majority vote shall be adopted and made public at least sixty (60) days prior to the election date.

(2) The results of the first election shall be canvassed by the board of trustees within five (5) days after the election. In the event no candidate in a position received a majority of the votes cast therein the board of trustees shall order a special election to be held not less than ten (10) days nor more than thirty (30) days from the date of the first election and shall cause the names of the two (2) candidates receiving the highest number of votes in any position in which no candidate received a majority to be placed on the ballot as candidates for that position. Said election shall be held and conducted in the manner prescribed by law for regular trustee elections.

Sec. 4. This Act shall be cumulative of all other laws, general and special, relating to the subject matter hereof. In all matters not covered by the terms hereof, the provisions of the existing laws shall govern. Acts 1962, 57th Leg., 3rd C.S., p. 196, ch. 74, §§ 1-4.

Emergency. Effective Feb. 16, 1962.

Election of trustees in counties of 110,000 to 300,000, see art. 2775b.

Trustees in districts of 30,220 or more scholastics, election date, see art. 2774d.

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

Art. 2815g—56. Validation of districts; resolutions; orders and ordinances for divorcement or separation from municipal control; bonds; boundaries

Section 1. All school districts of every kind and type whatsoever, including all types of junior and regional college districts, which have been recognized by either State or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally created, established, and/or organized in the first instance, regardless of the actual manner in which they were attempted to be created, established, and/or organized; and the boundary lines and names of all such school districts are likewise validated. All resolutions, orders, ordinances, and other acts or attempted acts of all county boards of school trustees and county boards of education, Commissioners Courts, and county judges, in changing or attempting to change the boundaries of any school district of any kind or type whatsoever, including all types of junior and regional college districts, whether by rearrangement of boundaries or correction of boundary lines, by subdividing or detachment, by annexation or consolidation of all or part of one or more such school districts to or with all or part of one or more other such school districts, by grouping of such school districts, or otherwise, or in creating or attempting to create any such school district, or in abolishing or attempting to abolish any such school district, or in converting or attempting to convert any such school district into any other type of school district, are hereby validated in all respects, and all such boundary changes, creations, abolitions, and annexations, or attempts thereat, shall be valid as though they had been duly and legally accomplished in the first instance.

Sec. 2. All resolutions, orders, ordinances, and other acts or attempted acts of all governing bodies of all municipalities and of all governing bodies of all municipally controlled or assumed school districts and extended municipal school districts, in separating or divorcing or attempting to separate or divorce such schools or school districts from municipal control, jurisdiction, or authority, and/or of the governing bodies of all municipalities in annexing or attempting to annex any territory to any such municipally controlled, assumed, or extended school districts, are hereby validated in all respects, and all such separations or divorcements and annexations, or attempts thereat, shall be valid as though they had been duly and legally accomplished in the first instance.

Sec. 3. All bonds, including both tax and revenue bonds, and including voted or authorized but undelivered bonds as well as outstanding bonds, and all voted bond taxes and voted maintenance taxes, of and in all school districts of every kind and type whatsoever, including all types of junior and regional college districts, and all bond, maintenance tax, and bond assumption elections heretofore held in all such school districts, together with all proceedings, resolutions, orders, ordinances, and other acts or attempted acts of the governing bodies or bond-issuing authorities of all such school districts, pertaining to, or attempting to issue or authorize, any such bonds, bond taxes, maintenance taxes, and bond assumptions, be and are hereby validated in all respects, and all such bonds, bond taxes, maintenance taxes, and bond assumptions shall be valid as though they had been duly and legally issued, authorized, or accomplished in the first instance.

Sec. 4. Nothing in this Act shall be construed as validating any boundary change made or attempted to be made by any ex parte order, resolution, or other act of the board of trustees of any school district, and

this Act shall have no application to litigation pending in any court of competent jurisdiction in this State on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to proceedings pending before the County Boards of Trustees, the State Commissioner of Education, or the State Board of Education on the effective date hereof questioning the validity of any matters hereby validated if such proceedings are ultimately determined against the validity of the same. Nor shall this Act apply to any district which has heretofore been declared invalid by a court of competent jurisdiction in this State or which may have been established and which was later returned to its original status. Acts 1962, 57th Leg., 3rd C.S., p. 23, ch. 9.

Emergency. Effective Jan. 30, 1962.

Art. 2815g—57. Validation of districts; acts of trustees; additions of territory; elections; bonds; boundaries; taxes; exceptions

Section 1. All school districts, including any independent school district controlled by a municipality and including common school districts, independent school districts, junior college districts, regional college districts, consolidated common school districts, consolidated independent school districts, rural high school districts, all county line school districts, including county line common school districts, county line independent school districts, county line rural high school districts, county line consolidated common school districts, county line consolidated independent school districts, and all other school districts, groups or annexations of whole districts, or parts of districts, whether established, organized, and/or created by vote of the people residing in such districts, or proposed districts, or by action of the governing body of any such municipalities, or by action of the county school boards, or by action of the county judge, or by action of the Commissioners Courts, and whether created by General or Special Law in this State, and heretofore recognized by either State or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance, and further providing that whenever a vacancy occurs on the board of trustees of a rural high school established under the provisions of Articles 2922a, 2922c, and 2922f of the Revised Civil Statutes of Texas, 1925, as amended, shall be filled for the unexpired term by appointment by the county board of trustees.

All acts of the county boards of trustees of any and all counties in rearranging, consolidating, grouping, annexing, changing, detaching and attaching of territory, or subdividing any and all such school districts, or increasing or decreasing the area thereof, or abolishing school districts in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, and all acts of the governing bodies of any such municipalities in annexing territories to such municipally controlled school districts, are hereby in all things validated.

All acts and orders of the county boards of school trustees of any and all counties in rearranging, annexing, detaching or attaching of territory, increasing or decreasing the area, or changing the boundaries of any and all junior college districts, are hereby in all things validated.

All acts and orders of the county boards of school trustees of any and all counties in adding territory to any junior college district, are hereby in all things validated. All elections for bonds, the levy and collection of taxes, and/or debt assumption ordered by the governing body of such junior college district and held over the entire enlarged or extended area,

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

in which election a majority of the qualified voters owning taxable property within such junior college district as enlarged or extended and having duly rendered the same for taxation, are hereby in all things validated; and said governing body is hereby authorized to issue such bonds and levy such taxes, and the indebtedness so assumed is hereby declared to be the indebtedness of such enlarged junior college district.

All consolidations, or attempts at consolidation, of school districts after an election was held and a majority of the legally qualified voters in each such district voting in such election voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as though they had been so consolidated or established in the first instance, and shall include, among others, such attempted consolidations where the election proceedings called for the consolidation of one or more common school districts and/or one or more independent school districts with an independent school district, but did not provide for the consolidation of each such common school district and/or independent school district with each other such district.

All acts of the county judges, and/or the Commissioners Courts, and/or the county boards of school trustees in converting or changing one type of school district into another type of school district, are hereby in all things validated, and all elections called by such officers for such conversion or change, in which election a majority of the qualified voters voting therein voted in favor thereof, are hereby in all things validated, and all such converted or changed school districts are hereby in all things validated as though they had been legally established in the first instance.

All acts of the governing bodies of municipalities and/or of the boards of trustees of municipally controlled or assumed school districts and/or cities and towns constituting separate and independent school districts and/or extended municipal school districts, in ordering elections for the separation or divorcement of such schools and/or districts from municipal control, jurisdiction or authority, in which elections a majority of the qualified voters voting therein voted in favor of such separation or divorcement, are hereby in all things validated, and the school districts formed by such separation or divorcement are hereby in all things validated, and the organization and acts of the boards of trustees of any and all such districts are hereby in all things validated.

The boundary lines of any and all such school districts are hereby in all things validated. The names of any and all such school districts are hereby in all things validated.

All acts of the boards of trustees in such school districts or the governing bodies of such municipalities or the county judges or the Commissioners Courts ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such school districts, and all bonds issued and now outstanding, and all bonds heretofore voted but not issued, and all tax elections, bond elections, and bond assumption elections following such consolidation, annexation, grouping, attachment or detachment, conversion, change, etc., are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county or school district or municipality in the creation of any district was omitted, shall in nowise invalidate such district; and the fact that by inadvertence or oversight any act was omitted by the board of trustees of any such district or the county judge or the Commissioners Court or the governing body of any such municipality in ordering an election or elections, or in declaring the results thereof, or in levying the taxes for such districts, or in the issuance of the bonds of any such

district, shall in nowise invalidate any of such proceedings or any bonds so voted or issued by such district. All revenue bonds issued and outstanding, and all revenue bonds authorized but not yet issued for and on behalf of school districts and all proceedings relating thereto are hereby in all things validated. All acts of the boards of trustees of school districts or the governing bodies of municipalities or the county judges or the Commissioners Courts in entering into leases of real estate or other property to such school districts and all such leases are hereby in all things validated; and all tax or revenue bonds issued or authorized to be issued to construct, erect, or purchase improvements for such school districts on such leased real estate are hereby in all things validated.

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess, and collect the same rate of tax, or not to exceed the rate of tax as heretofore authorized or attempted to be authorized by any act of the district or by any election of the taxpaying voters of said districts or by any Act whether General or Special, by the Legislature, or as is now being levied, assessed, and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said districts, or by any Act, whether General or Special, of the Legislature.

Sec. 3. Anything to the contrary notwithstanding, this Act shall not be construed as validating any boundary change made or attempted to be made by any ex parte order, resolution or act of the Board of Trustees of any school district.

Sec. 4. This Act shall have no application to litigation pending in any court of competent jurisdiction in this State on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to proceedings pending before the County Boards of School Trustees, the State Commissioner of Education, or the State Board of Education on the effective date hereof questioning the validity of any matters hereby validated if such proceedings are ultimately determined against the validity of the same. Nor shall this Act apply to any district which has heretofore been declared invalid by a court of competent jurisdiction in this State or which may have been established and which was later returned to its original status. Acts 1963, 58th Leg., p. 836, ch. 318.

Effective 90 days after May 24, 1963, date of adjournment.

7. JUNIOR COLLEGES

Art. 2815h—11. Validation of acts relating to bonds, bond elections and bond taxes

Section 1. All of the acts of all Junior College Districts heretofore created and recognized as an existing Junior College District by the State Board of Education or by the Texas Education Agency and any Junior College or Junior College District to which the Legislature of the State of Texas has heretofore appropriated funds in ordering an election or elections, declaring the results of elections, levying or attempting or purporting to levy taxes for and on behalf of such District and all bonds issued and now outstanding and all bonds heretofore voted but not issued and all tax elections, bond elections and bond-assumption elections are hereby in all things validated and all acts of such Junior College Districts relating to the ordering of such election, notice of the same, manner of holding the same, absentee voting, the making of returns thereof and declaring the results thereof are hereby validated.

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

Sec. 2. This Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same. Nor shall this Act apply to proceedings pending before the County Boards of Trustees, the State Commissioner of Education, or the State Board of Education on the effective date hereof questioning the validity of any matters hereby validated if such proceedings are ultimately determined against the validity of the same. Nor shall this Act apply to any district which has heretofore been declared invalid by a court of competent jurisdiction in this state or which may have been established and which was later returned to its original status. Acts 1962, 57th Leg., 3rd C.S., p. 147, ch. 48, §§ 1, 2.

Emergency. Effective Feb. 16, 1962.

Art. 2815j—2. Appropriations to supplement local funds; regulation and allocation; eligibility

Sec. 4a. Repealed. Acts 1963, 58th Leg., p. 431, ch. 149, § 1. Eff. 90 days after May 24, 1963, date of adjournment.

Art. 2815o. Boards of Regents of junior colleges

Change of terms of office of members of boards of regents, see art. 2815o—1b.

Art. 2815o—1b. Terms of office of boards of regents

Six-year terms

Section 1. From and after the effective date of this Act, the terms of office of members of the Boards of Regents of all Junior College Districts presently operating under Chapter 146, Acts of the Fifty-first Legislature, 1949 (compiled as Article 2815o, *Vernon's Texas Civil Statutes*), shall be six (6) years.

Expiration of terms; elections

Sec. 2. Immediately after this Act becomes effective, such board members shall determine by lot the terms to be served. The three (3) board members having the shortest remaining term unexpired at the effective date of this Act shall serve until the first Saturday in April of the next even-numbered year, at which time three (3) board members shall be elected for a term of six (6) years. Three (3) shall be so chosen from those having the longest remaining term unexpired at the effective date of this Act, and those three (3) shall serve until the first Saturday in April of the next even-numbered calendar year and for four (4) years thereafter when three (3) shall be elected to serve for a term of six (6) years. The remaining three (3) shall serve until the first Saturday in April of the next even-numbered calendar year and for two (2) years thereafter, when three (3) shall be elected for a term of six (6) years. Thereafter, on the first Saturday in April of each even-numbered calendar year three (3) board members shall be elected to serve for a term of six (6) years. All elections held under the provisions of this Act shall be held the first Saturday in April of even-numbered calendar years, the first such election to be held on the first Saturday in April, 1964.

Vacancies

Sec. 3. The members of the board remaining after a vacancy occurs shall fill the same for the unexpired term.

Conduct of elections

Sec. 4. Except as modified by this Act, all such elections in such Junior College Districts shall be held in the manner and in conformity with the provisions of law now applicable; provided, however, that this Act shall not become effective as to Cisco Junior College until January 1, 1964.

Cumulative effect

Sec. 5. The provisions of this Act shall be cumulative of all general laws on the subject not in conflict herewith, and where not otherwise provided herein, such general laws shall apply, but in case of conflict the provisions of this Act shall control and be effective. Acts 1963, 58th Leg., p. 21, ch. 15.

Emergency. Effective Jan. 1, 1964.

Art. 2815p-1. Disannexation of overlapped territory

Section 1. All junior college districts whose boundaries have or may hereafter become established so that they include territory which prior to such establishment lay, and shall continue to lie, within the boundaries of another junior college district shall have the power to disannex such overlapped territory.

Upon certification by the governing board of such a junior college district to the county board of school trustees of the county in which its college is located that such an overlapping condition exists, the county board may by resolution disannex the overlapped territory from the district, describing such territory by metes and bounds. Acts 1963, 58th Leg., p. 1180, ch. 465.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act authorizing all junior college districts which may overlap preexisting

boundaries of other junior college districts to disannex the overlapped territory; providing the method of such disannexation; and declaring an emergency. Acts 1963, 58th Leg., p. 1180, ch. 465.

Art. 2815q-1. Abolition of junior college districts

Section 1. The term "Applicable District," as used in this Act, shall mean any Junior College District which has conveyed all, or substantially all, of its property and assets to a State supported senior college or university located in such Junior College District, and which Junior College District has no outstanding bonded indebtedness.

Sec. 2. All Applicable Districts and their governing boards are hereby abolished and shall cease to exist and function; provided, however, that all delinquent and uncollected taxes in said Applicable Districts shall not hereby be discharged, but shall be and remain fully due, payable and collectible. Immediately upon the effective date of this Act, the persons formerly acting as the governing board and officers of each Applicable District shall turn over all remaining property and assets of said Applicable District, including all tax collections on hand, directly to the State supported senior college or university located therein. After the effective date of this Act, the governing board of the Independent School District in which any such State supported senior college or university is located shall, for and on behalf of any such Applicable District, cause, through its tax collector and other officers, all delinquent and uncollected taxes of any such Applicable District to be collected in accordance with the General Laws applicable to Independent School Districts. All of said taxes, as collected, shall be turned over to any such State supported senior col-

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

lege or university. All taxes turned over to any such State supported senior college or university in accordance with this Act may be used by it for any lawful purpose. Acts 1963, 58th Leg., p. 547, ch. 203.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 547, ch. 203, § 3 repealed all conflicting laws and parts of laws.

Change of districts, see art. 2767.

Art. 2815r. Dormitories, libraries, cottages or stadiums; museums and other buildings

Authority to erect and equip dormitories, libraries, cottages or stadiums; bonds or notes

Section 1. The Boards of Trustees or Boards of Regents of the several public junior colleges are hereby authorized and empowered to erect and equip, and to contract with any person, firm, or corporation, for the erection, completion and equipping of dormitories, libraries, cottages or stadiums, to be erected either on the campus or real estate then owned by said colleges, or on other real estate purchased or leased for the purpose, and the said Boards of Trustees, or Boards of Regents, are hereby expressly authorized to purchase, or lease, additional real estate for such purposes, provided said institutions have sufficient surplus from local funds, but not exceeding twenty-five per cent (25%) of the total for any fiscal year, to pay cash for any purchase of land; or the purchase of land is made from funds derived from the sale of revenue bonds or notes. The bonds or notes authorized herein are to be paid solely from the revenues of the dormitories, libraries, cottages and stadiums, and shall never be charged against the State nor any appropriation made by the State, nor shall any portion of said appropriation ever be used for the payment of said notes or bonds; nor shall any local or institutional funds in excess of twenty-five per cent (25%) of the total for any calendar year ever be used for the payment of said notes or bonds. It being the intention of the Legislature to authorize the payment of said notes and bonds solely from revenues derived from the improvements authorized herein and an emergency to be supplemented from local funds not exceeding twenty-five per cent (25%) for any fiscal year. As amended Acts 1963, 58th Leg., p. 1271, ch. 486, § 1.

Emergency. Effective June 10, 1963.

Joint construction of museums, library and other buildings; lease contracts for use of buildings

Sec. 2. (a) The Boards aforesaid are hereby authorized and empowered to enter into contracts with municipalities or school districts for the joint construction of museums, library buildings, or such other buildings as may be deemed necessary.

(b) The Boards aforesaid are further authorized and empowered to enter into lease contracts with municipalities within the boundaries of their district, for the use, by either, of all or any part of library buildings, or such other buildings as may be deemed necessary. As amended Acts 1963, 58th Leg., p. 1271, ch. 486, § 2.

Emergency. Effective June 10, 1963.

Obligations; pledge of revenues

Sec. 3. In payment for the erection, completion and equipping of such dormitories, libraries, cottages and stadiums, and the purchase of the necessary sites thereto, the Boards aforesaid are further authorized and empowered to issue their obligations in such sum or sums and upon

such terms and conditions as to said directors may seem advisable, and as security for the payment thereof, to pledge the net rents, fees, revenues and incomes from the improvements to be erected hereunder. Any bonds or notes issued hereunder shall bear interest at the rate not to exceed six per cent (6%) per annum and shall finally mature not more than forty (40) years from date. As amended Acts 1951, 52nd Leg., p. 565, ch. 329, § 1; Acts 1963, 58th Leg., p. 1271, ch. 486, § 4.

Emergency. Effective June 10, 1963.

Rates, fees and charges

Sec. 5. The Boards aforesaid are hereby authorized and directed to establish and maintain such schedule of rates, lease rentals, fees and charges for the use of the facilities afforded by its dormitories, libraries, cottages and stadiums, and the revenue from the athletic fields and stadiums, which rates, rentals, fees and charges shall be in an amount at least sufficient to pay the operating and maintenance charges thereof and to pay the principal and interest representing the indebtedness against said revenues, rents, fees and incomes. As amended Acts 1963, 58th Leg., p. 1271, ch. 486, § 4.

Emergency. Effective June 10, 1963.

Indebtedness not to be incurred

Sec. 6. In payment for the erection, completion and equipping of such dormitories, libraries, cottages and stadiums, and the purchase of the necessary sites thereto, the Boards aforesaid shall not in any manner nor to any extent incur indebtedness against themselves or the State of Texas, and the obligation or obligations authorized by this Act shall never be a personal obligation of the colleges above named, or the State of Texas; but such obligations shall be discharged solely from the revenues herein authorized to be pledged for the purpose. As amended Acts 1963, 58th Leg., p. 1271, ch. 486, § 5.

Emergency. Effective June 10, 1963.

8. REGIONAL COLLEGE DISTRICTS

Art. 2815t. Creation and regulation of regional college districts

Pan American Regional College District,
see art. 2619a, § 8.

CHAPTER FIFTEEN—SCHOOL FUNDS

Art.
2827c. Borrowing money for current main-
tenance expenses [New].

Art. 2827c. Borrowing money for current maintenance expenses

Section 1. Independent or consolidated school districts are hereby authorized to borrow money for the purpose of paying maintenance expenses and to evidence such loans with negotiable notes; provided that at no time shall said loans exceed seventy-five per cent (75%) of the previous years' income. Such notes shall be payable only from current maintenance taxes levied at or before the time of making such loans and from delinquent maintenance taxes. The term "maintenance expenses" or "maintenance expenditures" as used in this Act means any lawful expenditure of the school district other than payment of principal of and interest on bonds.

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

Sec. 2. Such notes may be issued only after a budget has been adopted for the current school year and the maintenance expenditures stated therein do not exceed the maintenance tax levied for the current year, plus the delinquent maintenance taxes expected by the board of trustees to be collected during the then current school year. A budget, within the meaning of this Act, may be amended or a new budget may be adopted at any time before the issuance of such notes.

Sec. 3. Such notes shall be authorized by resolution adopted by a majority vote of the board of trustees, signed by the president or vice president and attested by the secretary of said board. The notes shall bear interest at a rate of not to exceed six per cent (6%) per annum.

Sec. 4. Any such note may contain a certification that it is issued pursuant to and in compliance with this Act, and pursuant to a resolution duly adopted by the board of trustees, and such certification shall constitute sufficient evidence that said note is a valid and binding obligation of the district.

Sec. 4A. This Act is cumulative of and is not intended to replace or impair the provisions of the Acts of 1934, Forty-third Legislature, Fourth Called Session, page 34, Chapter 9, Section 1, codified as Article 2827, Vernon's Annotated Revised Civil Statutes of Texas. Acts 1963, 58th Leg., p. 965, ch. 388.

Effective 90 days after May 24, 1963, date of adjournment.

Maintenance tax elections and proceedings, see art. 2790a—5.

Bond and maintenance taxes, see arts. 2784g, 2784g—1.

Art. 2828. 2767 County depository

Audit of records of funds handled by departments of education in counties of 1,200,000 or more, see art. 2919g—1.

Art. 2830. 2769 To keep accounts

Audit of records of funds handled by departments of education in counties of 1,200,000 or more, see art. 2919g—1.

CHAPTER SIXTEEN—FREE TEXTBOOKS

2. DISTRIBUTION OF BOOKS

Art. 2876i. Homemaking textbooks for grades 9 through 12 [New].

2. DISTRIBUTION OF BOOKS

Art. 2876i. Homemaking textbooks for grades 9 through 12

Homemaking text books for grades nine (9) through twelve (12) shall be distributed on a quota basis not in excess of two hundred twenty per cent (220%) of the grade enrollment to which the books are assigned. Acts 1963, 58th Leg., p. 1307, ch. 497, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

making in certain grades; and declaring an emergency. Acts 1963, 58th Leg., p. 1307, ch. 497.

Title of Act:

An Act providing a formula for distribution of textbooks on the subject of Home-

**CHAPTER SEVENTEEN—TEACHERS' CERTIFICATES
AND SALARIES****2A. CERTIFICATION OF TEACHERS****Art. 2891b. Teacher's Certificates; application; qualifications; classifications****Qualifications**

Sec. 4. No person shall receive a certificate authorizing his employment in the public free schools of Texas without showing to the satisfaction of the State Commissioner of Education that he is a person of good moral character, evidenced by written statements of three (3) good and well-known citizens, or such proof as the Commissioner may require of his moral qualifications; that he will support and defend the Constitutions of the United States and the State of Texas; that he has met the requirements of the laws of this State requiring an applicant to have secured credit from a college or university in this State in a course or courses which give special emphasis upon the Constitution of the State of Texas and to have secured credit from a college or university in a course or courses which give special emphasis upon the Constitution of the United States; and that he has ability to speak and understand the English language sufficiently to use it easily and readily in conversation and teaching. No certificate shall be granted to a person under eighteen (18) years of age. As amended Acts 1963, 58th Leg., p. 964, ch. 387, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Certificates from other States

Sec. 13. a. The holders of a bachelor or higher degree or a valid teacher certificate based on a bachelor or higher degree from other States, who desire certificates valid in Texas, shall present such certificates and official college transcripts to the State Commissioner of Education, who shall require the State Board of Examiners for Teacher Education to make investigations as to the value of such transcripts or certificates, as measured by the standards for certificates in this State; and the State Commissioner shall have the power to issue to the holder of a valid certificate or bachelor or higher degree from another State, such Texas certificate as in his judgment the holder is entitled to receive when the value of his degree or certificate is estimated by the standards required for Texas certificates; provided that no certificates may be issued if the said degree or certificates are not estimated to equal the requirements for the lowest State certificate issued in Texas.

b. No temporary or permanent Texas teacher certificate shall be issued to a person from another state, as provided in above Subdivision a, until that person has secured credit from a college or university in this State in a course or courses which give special emphasis upon the Constitution of the State of Texas and has secured credit from a college or university in a course or courses which give special emphasis upon the Constitution of the United States. Such course or courses may be taken by correspondence, extension classes, or in residence. As amended Acts 1963, 58th Leg., p. 964, ch. 387, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER EIGHTEEN—COMPULSORY EDUCATION

Art. 2892. Attendance requirements

Every child in this State who is seven (7) years and not more than sixteen (16) years of age, other than a high school graduate, shall be required to attend the public schools in the district of its residence, or in some other district to which it may be transferred as provided by law, a minimum of one hundred and sixty-five (165) days of the regular school term of the district in which said child attends school. As amended Acts 1963, 58th Leg., p. 937, ch. 367, § 1.

Art. 2892a. Repealed. Acts 1963, 58th Leg., p. 937, ch. 367, § 3. Eff. 90 days after May 24, 1963, date of adjournment

Art. 2892b. Repealed. Acts 1963, 58th Leg., p. 937, ch. 367, § 3. Eff. 90 days after May 24, 1963, date of adjournment

Art. 2893. Exemptions

Saved From Repeal

Acts 1963, 58th Leg., p. 937, ch. 367, which, in sections 1 and 2, amended article 2892 and Vernon's Ann. P.C. art. 297, and which, in section 3, repealed articles 2892a and 2892b, provided in section 4 that nothing in the act should be construed as repealing the exemptions set out in this article.

CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

Art.

2919g—1. Audit of records of funds handled by departments of education in counties of 1,200,000 or more [New].

Art. 2909c. Construction, acquisition, improvement and equipment of buildings by certain colleges and universities

Change of name of Agricultural and Mechanical College of Texas to Texas A and M University, see art. 2607a. Pan American College borrowing funds for construction and equipment of buildings, see art. 2619a, § 16.

Art. 2909d. University and Agricultural and Mechanical College bonds or notes payable from income of Permanent University Fund

Change of name of Agricultural and Mechanical College of Texas to Texas A and M University, see art. 2607a.

Art. 2919c. Airport; West Texas College and Texas Agricultural College

Change of name of West Texas State College to West Texas State University, see art. 2647d.

Art. 2919e—2. Texas Commission on Higher Education

Pan American College, approval of courses and degrees by Texas commission on higher education, see art. 2619a, § 10.

Art. 2919g-1. Audit of records of funds handled by departments of education in counties of 1,200,000 or more

Section 1. In any counties having a population of one million, two hundred thousand (1,200,000) or more according to the last preceding Federal Census, the county auditor is hereby authorized and required to audit all books, accounts, reports, vouchers and other records relating to all funds handled by the county department of education. The results of such audit shall be made public by the county auditor.

Sec. 2. The county auditor of any county to which this Act applies shall, as soon as practicable, audit all such books, accounts, reports, vouchers and other records of the county department of education from the effective date of this Act back to the last preceding audit made of such books, accounts, reports, vouchers and other records by a county auditor of said county. The county auditor shall be reimbursed from the funds of the county department of education for all expenses incurred in performing the first audit. Thereafter, the county auditor shall audit such books, accounts, reports, vouchers and other records of the county department of education as often as is necessary to keep himself informed of the condition thereof, but in no case shall the interval between such audits exceed one (1) year.

Sec. 3. The county auditor of any county to which this Act applies shall set up such methods and procedures as are necessary to conduct audits effectively. The county department of education shall comply with such methods and procedures for facilitating audits as determined by the county auditor.

Sec. 4. This Act shall not be construed as precluding other government agencies or independent auditors from auditing certain funds handled by county departments of education, in counties to which this Act applies, in addition to the audit by county auditors as provided for herein. Acts 1963, 58th Leg., p. 145, ch. 87.

Emergency. Effective April 30, 1963.

Accounting system in certain counties, see art. 1656a.

Budget of county funds, see art. 2724.

County auditor, examination of vouchers given by trustees of common school districts, see art. 1653.

County board of education, management and control of public schools, see art. 2703.

County depository of school funds, see art. 2828.

County treasurers, accounts, see art. 2830.

School ledger of county auditor, see art. 1652.

CHAPTER NINETEEN A--RURAL HIGH SCHOOLS

Art. 2922l(3.1). Division of districts comprising ten original school districts into five areas [New].

Art. 2922l(3.1). Division of districts comprising ten original school districts into five areas

Section 1. This Act shall apply only to rural high school districts and consolidated independent school districts composed of the territory formerly comprising ten (10) original school districts, one of which shall have been an independent district, each original school district having a scholastic population of less than two hundred (200), in counties with

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

a total population of not less than forty thousand two hundred (40,200) and not more than forty-one thousand two hundred (41,200) according to the last preceding Federal Census.

It is immaterial whether such rural high school district or consolidated independent school district shall have been established, or shall be established, by consolidation, or by annexation, or by grouping the original school districts.

Sec. 2. In all rural high school and independent school districts to which this Act is applicable a Board of seven (7) trustees shall be elected by the voters of the district at large, and two (2) of such trustees shall be elected from the territory formerly comprising the one independent school district containing less than two hundred (200) scholastic population, and the other five (5) trustees shall be elected from the territory formerly comprising the common school districts having fewer than two hundred (200) scholastic population.

Sec. 3. In all districts to which this Act is applicable it shall be the duties of the Board of County School Trustees of the county in which each school district is situated to divide the territory of such rural high school district or consolidated independent school district, exclusive of the territory formerly comprising the one independent school district having less than two hundred (200) scholastic population, into five (5) areas, and to define such areas; and one trustee shall be elected from each of such areas so established and defined by the County Board; but it is expressly provided that each of such trustees is to be elected by the voters at large of the rural high school district or the consolidated independent school district, as the case may be.

Sec. 4. The Board of seven (7) trustees serving such district at the time this Act becomes a law shall serve until the expiration of current terms of office for which elected. Thereafter, trustees shall be elected from the defined areas for a term of three (3) years as provided by law. Terms of office for trustees in Positions Six and Seven of said district shall apply to those trustees elected in 1963, and their successors in office; terms of office for trustees in Positions Three, Four and Five shall apply to those trustees elected in 1964, and their successors in office; and terms of office for those trustees in Positions One and Two shall apply to those trustees elected in 1965, and their successors in office.

Sec. 5. When such rural high school districts and consolidated independent school districts to which this Act is applicable have been in existence for two (2) years or longer, and additional territory is then added to such districts by annexation, the provisions of this Act shall continue to apply to such districts, although they may then contain territory originally comprising more than ten (10) original school districts; provided, however, that it shall be the duty of the Board of County School Trustees to divide the territory of such districts as provided for in Section 3 of this Act and to include the territory added by annexation within one or more of the five (5) areas provided for in Section 3. Acts 1963, 58th Leg., p. 9, ch. 7.

Emergency. Effective March 7, 1963.

CHAPTER TWENTY—TEACHERS' RETIREMENT

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| <p>Art.
2922—1d. Elective method of calculating the standard annuity allowable under the Teacher Retirement Act [New].</p> <p>2922—1e. Re-employment of retired auxiliary school employees [New].</p> | <p>Art.
2922—1f. Death of member during absence from service; exemptions from taxes or process; survivor benefits [New].</p> |
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Art. 2922—1. Teachers' Retirement System

Elective method of calculating the standard annuity allowable under the teacher retirement act, see art. 2922—1d.

Art. 2922—1b. Re-employment of retired teachers

Re-employment of retired auxiliary school employees, see art. 2922—1e.

Art. 2922—1d. Elective method of calculating the standard annuity allowable under the Teacher Retirement Act

Method of calculation; "Best-ten-years-average compensation" defined

Section 1. Elective Method of Calculating the Standard Annuity Allowable Under the Teacher Retirement Act.

Subsection 1. In lieu of a standard annuity calculated in the manner prescribed by Subsection 22, Section 1 of the Teacher Retirement Act (Chapter 470, Acts, Regular Session, Forty-fifth Legislature as amended by Chapter 530, Acts, Regular Session, Fifty-fourth Legislature),¹ any member or his beneficiary may elect to have the "standard annuity" receivable from the Teacher Retirement System of Texas calculated and determined upon the basis of the "best-ten-years-average compensation" of the member as that term is hereinbelow defined; and as to a person so electing, the "standard annuity" shall be an annuity payable in equal monthly installments aggregating in twelve (12) months the following sum:

- (a) One per cent (1%) for each year of prior service credit multiplied by the member's "best-ten-years-average compensation"; plus
- (b) One and one half per cent (1½%) for each year of membership former service and for each year of current membership service, multiplied by the member's "best-ten-years-average compensation."

Subsection 2. The term "best-ten-years-average compensation" shall mean the average annual compensation received by the member as a teacher or as an auxiliary employee during the ten (10) years of creditable service (whether or not consecutive) in which the member earned the highest compensation. Compensation in excess of Eight Thousand, Four Hundred Dollars (\$8,400) in any year shall be excluded in calculating the "best-ten-years-average compensation" of the member.

Minimum standard service retirement benefits

Sec. 2. A teacher member who has retired or who hereafter retires from service after attaining sixty (60) years of age and after having completed twenty-five (25) or more years of creditable service shall at all events be entitled to receive the equivalent of a standard service retire-

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

ment benefit aggregating in twelve (12) months the sum of Fifty Dollars (\$50) multiplied by each year of prior service credit, membership former service credit, and current service credit to which such member is entitled; provided, however, that no standard service benefit shall be increased by reason of the provisions of this Section to an amount exceeding the sum of One Thousand, Eight Hundred Dollars (\$1,800) per year.

Definition of terms

Sec. 3. Apart from the term "standard annuity," any term defined by Chapter 470, Acts, Regular Session, Forty-fifth Legislature as heretofore amended, shall, when used in this Act, have the same meaning, unless the context plainly indicates otherwise.

Cumulative effect

Sec. 4. The provisions of this Act shall be in addition to and cumulative of the rights granted to members and beneficiaries of the Teacher Retirement System of Texas under Chapter 470, Acts, Regular Session, Forty-fifth Legislature (as heretofore amended) and other prior and existing laws, and shall in no event be so construed as to reduce any benefit heretofore allowed or any benefit allowable under other provisions of existing laws; provided, however, that if the minimum service retirement benefit of any retired teacher with twenty-five (25) or more years of creditable service is less than the minimum prescribed in Section 2 of this Act, such benefits shall be increased from and after the end of the month in which this Act becomes effective to the minimum prescribed for equivalent service in Section 2 hereof. Section 1 of this Act shall apply to annuities becoming effective on and after the effective date of this Act. Acts 1963, 58th Leg., p. 43, ch. 29.

¹ Article 2922—1.

Emergency. Effective March 30, 1963.

Art. 2922—1e. Re-employment of retired auxiliary school employees

Section 1. Any auxiliary employee retired from service under the Teacher Retirement System of Texas and receiving benefits under the System may be employed, on a part-time, day-to-day basis only, as an auxiliary substitute in the public schools or in fully or partly State-supported institutions of higher education for a period not to exceed eighty (80) days in a single school year without affecting existing benefits under the Retirement System, including the right to receive retirement allowance. Any such person who reports for duty as a substitute auxiliary school employee during any day and works any portion of the day shall be considered to have worked one day. The substitute employment does not entitle the person to additional creditable service under the Retirement System.

Sec. 2. Any retired person who exceeds eighty (80) days of substitute work, or who is again employed in any position in the public schools of Texas, shall, except as provided in Section 1 above, forfeit all retirement benefits for any month in which such employment occurs. Acts 1963, 58th Leg., p. 506, ch. 190.

Effective 90 days after May 24, 1963, date of adjournment.

Re-employment of retired teachers, see art. 2922—1b.

Art. 2922—1f. Death of member during absence from service; exemptions from taxes or process; survivor benefits

Section 1. If a member of the Teacher Retirement System shall die during an absence from service, during a period when the member was

eligible for retirement, or would have reached a retirement status within a period of five (5) years of his last covered employment, there shall be payable to his designated beneficiary the same benefits payable upon the death of a member in active service.

Sec. 2. Exemptions from execution. The right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of Senate Bill No. 290, Acts, Fifty-fourth Legislature, Regular Session, 1955, Chapter 530, as amended,¹ and the moneys in the various funds created by that Act, are hereby exempt from any State or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as provided in that Act.

Sec. 3. The beneficiaries of all retired members who are receiving retirement annuities from the Teacher Retirement System of Texas shall be entitled to the same survivor benefits as provided by the terms of Senate Bill No. 290, Acts, Fifty-fourth Legislature, Regular Session, 1955, for the beneficiaries of members with a year of creditable service after the effective date of that Act. This Section will apply to the beneficiaries of all retired members who die after the effective date of this Act. Acts 1963, 58th Leg., p. 1259, ch. 483.

¹ Article 2922—1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER TWENTY-TWO—FOUNDATION SCHOOL PROGRAM

Art.

2922—14b. Salary for principal in independent district without four-year accredited high school [New].

Art. 2922—13. Units

Professional units

Section 1.

(4) **Exceptional Children Teacher Units.** Exceptional children teacher units, special or convalescent, for each school district, separate for whites and separate for negroes, shall be allotted as follows:

a. It is the purpose of this allotment of exceptional children teacher units to provide competent educational services for the exceptional children in Texas who are over six (6) and not over twenty-one (21) years old at the beginning of the scholastic year, for whom the regular school facilities are inadequate or are not available.

In interpreting and carrying out the provisions of this Act, the words "exceptional children" wherever used, will be construed to mean physically handicapped children and mentally retarded children; the words "physically handicapped children" wherever used, will be construed to include any child of educable mind whose body functions or members are so impaired that he cannot be safely or adequately educated in the regular classes of the public schools, without the provision of special services; and the words "mentally retarded children" wherever used, will be construed to include any child whose mental condition is such that he cannot be adequately educated in the regular classes of the public schools, without the provision of special services. The term 'special services' may be

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interpreted to mean transportation; special teaching in the public school curriculum; corrective teaching, such as lip reading speech correction, sight conservation, and corrective health habits; and the provision of special seats, books and teaching supplies, and equipment required for the instruction of exceptional children. As amended Acts 1951, 52nd Leg., p. 323, ch. 197, § 1; Acts 1957, 55th Leg., p. 1160, ch. 386, § 1; Acts 1963, 58th Leg., p. 588, ch. 211, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

effective for the scholastic year 1963-64 and thereafter."

Section 2 of Acts 1963, 58th Leg., p. 588, ch. 211, provided: "This Act shall become

Amendment of § 1(4)a by Acts 1963, 58th Leg., p. 1186, ch. 471, § 1, see § 1(4)a, post.

a. It is the purpose of this allotment of exceptional children teacher units to provide competent educational services for the exceptional children in Texas between and including the ages of six (6) and twenty-one (21) for whom the regular school facilities are inadequate or are not available.

In interpreting and carrying out the provisions of this Act, the words "exceptional children," wherever used, will be construed to mean physically handicapped children, mentally retarded children and emotionally disturbed children. The words "physically handicapped children," wherever used, will be construed to include any child of educable mind whose body functions or members are so impaired that he cannot be safely or adequately educated in the regular classes of the public schools, without the provision of special services; the words "mentally retarded children," wherever used, will be construed to include any child whose mental condition is such that he cannot be adequately educated in the regular classes of the public schools, without the provision of special services; and the words "emotionally disturbed children," wherever used, will be construed to include any child whose emotional condition is medically determined and psychologically determined to be such that he cannot be adequately educated in the regular classes of the public schools, without the provision of special services. The term "special services" may be interpreted to mean transportation; special teaching in the public school curriculum; corrective teaching, such as lip reading, speech correction, sight conservation, and corrective health habits; and the provision of special seats, books and teaching supplies, and equipment required for the instruction of exceptional children. Provided, no child shall receive special services permitted by law as an emotionally disturbed child without the consent of his parent or guardian, and provided that said child is seventeen (17) years of age or under. Provided further, that the State-wide total of all classroom teacher units allocated for emotionally disturbed children under this Article in each year beginning September 1, 1963, shall be limited to six (6) classroom teacher units per year. It is the intent of the Legislature that these six (6) classroom teacher units per year be allocated as a pilot study only, to ascertain the most practical and effective means of educating emotionally disturbed children. As amended Acts 1951, 52nd Leg., p. 323, ch. 197, § 1; Acts 1957, 55th Leg., p. 1160, ch. 386, § 1; Acts 1963, 58th Leg., p. 1186, ch. 471, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Amendment of § 1(4)a by Acts 1963, 58th Leg., p. 588, ch. 211, § 1, see § 1(4)a, ante.

County-wide day schools for the deaf, see art. 3222b.

Rehabilitation districts for handicapped persons, see art. 2675k.

Art. 2922—14b. Salary for principal in independent district without four-year accredited high school

In an independent school district in which no four (4) year accredited high school operates but with an average daily attendance in excess of five hundred (500) students, for the preceding school year, the full-time principal who must perform the same duties as those assigned to a superintendent of schools shall be paid on the same monthly basis as prescribed in the Foundation Program Act for a full-time principal, but he shall receive the monthly salary multiplied by twelve (12). Provided further, that in such districts in addition to the full-time principal there shall be allotted two (2) part-time principals who shall be paid on the same basis as that provided for part-time principals in the Foundation Program Act. Acts 1963, 58th Leg., p. 1346, ch. 509, § 1.

Effective 90 days after May 24, 1963, date of adjournment. establishing the salary for such positions; and declaring an emergency. Acts 1963, 58th Leg., p. 1346, ch. 509.

Title of Act:

An Act prescribing allotment of principal units, in certain types of school districts,

Art. 2922—16. Finances

Local funds to be charged to each district

Sec. 5. The State Commissioner of Education shall determine the amount of local funds to be charged to each school district and used therein toward the support of the Foundation School Program, which amount shall be calculated as follows:

Divide the State and county assessed valuation of all property in the county subject to school district taxation for the next preceding school year into the State and county assessed valuation of the district for the next preceding school year, finding the district's percentage of the county valuation. Multiply the district's percentage of the county valuation by the amount of funds assigned to all of the districts in the county. The product shall be the amount of local funds that the district shall be assigned to raise toward the financing of its foundation school program.

Provided, however, that in any district containing State University-owned land, State-owned prison land, Federal-owned forestry land, Federal-owned military reservations or Federal-owned Indian reservations, the amount assigned to such school district shall be reduced in the proportion that the area included in the above-named classification bears to the total area of the district. Provided further, that no local fund assignment shall be charged to the Boys Ranch Independent School District in Oldham County, Texas, the Bexar County School for Boys Independent School District in Bexar County, Texas, and the Bexar County School for Girls Independent School District in Bexar County, Texas.

Provided that if the revenue that would be derived from the legal maximum local maintenance school tax is less than the amount that is assigned to a school district according to the economic index, and if such property valuation is not less than said property is valued for State and county purposes such lesser amount shall be the amount assigned to be raised by such school district.

Provided further, that if a school district is unable or for any reason failed to collect local maintenance school funds equal to the amount assigned to it as determined by this Act, such failure will not make the district ineligible for full State per capita apportionment and full Foundation School Fund grants, but the amount as determined by this Act shall

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

be charged against the district as budgetary receipts whether such amount is collected or not.

Provided that the amount of local funds assigned to a contract district, as provided for in Article III of this Act,¹ shall be assigned to the receiving district and all local taxes, except those required for the interest and sinking fund, shall be credited as collected to the receiving school district.

If a district other than such a contract district has no school, the amount of local funds assigned to such district shall be assigned for the current year to the receiving district in which such children attend school and the local tax funds collected shall be transferred to such receiving district; provided that if pupils from such a district attend schools in more than one receiving district, such local fund assignment and local tax funds shall be divided for the current year between such receiving districts proportionately according to the number of transfers to each receiving district.

If any school district which has a budgetary income, as provided in Article VI, Section 1, Subsections a and b,² in excess of the amount needed to operate a Minimum Foundation School Program as provided herein and transfers pupils to another district, such sending district shall pay a proportionate part of such excess based upon the ratio of the number transferred to the number of enumerated scholastics, to the district or districts to which such pupils are transferred, and such amount shall be charged to the receiving school.

The sum of the amounts assigned to the several portions of a county-line school district shall be the amount assigned to be raised by such district toward the financing of its Foundation School Program.

The county tax assessor-collector in each county, in addition to his other duties prescribed by law, shall certify to the State Commissioner of Education in Austin, Texas, not later than December 1st of each year, the following information:

(1) The assessed valuation, on a State and county valuation basis, of all property subject to school district taxation in each school district or portion of school district in such county, and the total assessed valuation of all property subject to the school district taxation in the county;

(2) The total area of each school district; and

(3) The area within each school district comprised of State University-owned land, State-owned prison land, Federal-owned forestry land, Federal-owned military reservations, and Federal-owned Indian reservations.

Should any county tax assessor-collector fail to submit such certificates to the State Commissioner of Education as provided for herein, the State Comptroller of Public Accounts is hereby directed to submit such information, estimating when necessary. As soon after the receipt of such certificates as practicable, and prior to the time that the respective tax rates for the school districts of the county have been set, the State Commissioner of Education shall notify each school district as to the amount of local funds that such district is assigned to raise for the succeeding school year.

If there has been a marked increase or decrease in the assessed valuation of a school district within a county, and if the county school board certifies that the use of the county and school district valuations for the preceding year in determining local fund assignments to the school dis-

districts in the county would be inequitable, and recommends a different distribution of the county total than that made by the State Commissioner of Education, such recommendations, subject to the approval of said Commissioner, shall become and be the lawful fund assignments to such districts.

Provided further, that any local maintenance funds in excess of the amount assigned to a district as determined by this Section may be expended for any lawful school purpose or it may be carried over as a balance into the next school year. As amended Acts 1954, 53rd Leg., 1st C.S., p. 13, ch. 5, § 4; Acts 1961, 57th Leg., 2nd C.S., p. 503, ch. 1, § 4; Acts 1963, 58th Leg., p. 1365, ch. 520, § 1.

¹ Article 2922—4 (now repealed).

² Article 2922—7 (now repealed).

Effective 90 days after May 24, 1963, date of adjournment.

Section 9A of the Act of 1961 provided: "Sec. 9A. In addition to the appropriation made from the Foundation School Fund by Senate Bill No. 1, [ch. 62] Acts of the 57th Legislature, First Called Session, 1961, and supplemental thereto, there is appropriated for the biennium ending August 31, 1963, all monies allocated to the Foundation School Fund by Senate Bill No. 117,

Chapter 335, Acts of the 51st Legislature, 1949, as amended, and any balances remaining in the Foundation School Fund at the end of each fiscal year to pay the state's part of the Foundation School Program as provided for in Chapter 334, Acts of the 51st Legislature, 1949, as last amended by this Act."

Allocation of revenue derived from gross receipts taxes to foundation school fund, see art. 7083a, § 2(4-a).

ELECTION CODE

CHAPTER ONE—MISCELLANEOUS PROVISIONS

Art.

1.01a. Definitions [New].

Art. 1.01a. Definitions

(a) As used in this Code, the term “qualified voter” or “qualified elector” means a person who meets all qualifications and requirements for voting as prescribed in Section 34¹ of this Code, including payment of the poll tax or procurement of a certificate of exemption where required by the provisions of this Code.

(b) As used in this Code, the terms “watcher,” “poll watcher,” and “supervisor” are synonymous. Wherever the term “supervisor” is used, it shall be construed to mean a watcher appointed in accordance with the provisions of this Code.

(c) The United States decennial census of date immediately preceding the action in question shall be the basis for determining population under any provision of this Code. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 1a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 2.

¹ Article 5.02.

Effective 90 days after May 24, 1963, date of adjournment.

Qualifications and appointment of poll watchers, see arts. 3.03, 3.05.

Qualifications and requirements for voting, see art. 5.02.

Art. 1.03. Blanks furnished

At least thirty days before each general election, the Secretary of State shall prescribe forms of all blanks necessary under this Code and shall furnish same to each county clerk. The Secretary of State shall at the same time certify to each county clerk a list of all the candidates who have been nominated for state and district offices and all other candidates whose names have been certified to the Secretary of State to be placed on the general election ballot. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 1.05. Ineligibility

5. Ineligibility

No person shall be eligible to be a candidate for, or to be elected or appointed to, any public office in this state unless he shall be eligible to hold such office under the Constitution and laws of this state, and unless he is a citizen of the United States and shall have resided in this state for a period of twelve months next preceding the date of any primary, general or special election at which he offers himself as a candidate or next preceding the date of his appointment, as the case may be, and for any office which is less than state-wide, shall have resided for six months next preceding such election in the district, county, precinct, municipality or other political subdivision for which the office is to be filled; provided, however, that the foregoing residence requirements shall not apply to any office

for which the Constitution or statutes of the United States or of this state prescribe residence qualifications in conflict herewith, and in case of conflict the provisions of such other laws shall control. No ineligible candidate shall ever have his name placed upon the ballot at any primary, general or special election; and no ineligible candidate shall ever be voted upon nor have votes counted for him at any such primary, general or special election. No person who advocates the overthrow by force or violence or change by unconstitutional means of the present constitutional form of government of the United States or of this state, shall be eligible to have his name printed on any official ballot in any general, special or primary election in this state. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 1.08. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, §§ 5, 121(a).

Eff. 90 days after May 24, 1963, date of adjournment

See, now, Vernon's Ann.Civ.St. art. 17.

CHAPTER TWO—TIME AND PLACE

Art. 2.01. Time and Place

A general election shall be held on the first Tuesday after the first Monday in November, A. D. 1964, and every two years thereafter, at such places as may be prescribed by law after notice as prescribed by law. Special elections shall be held at such times and places as may be fixed by law providing therefor. In all elections, general, special, or primary, the polls shall be open from seven o'clock a. m. to seven o'clock p. m.; provided, however, that in any county having a population of less than one hundred thousand, according to the last preceding federal census, the polls may be opened one hour later at eight o'clock a. m. on order of the commissioners court of such county duly entered in the minutes thereof; and provided, further, that in any county having a population of one million or more, according to the last preceding federal census, the polls may be opened one hour earlier at six o'clock a. m. on order of the commissioners court of such county entered in the minutes thereof. The foregoing authority of the commissioners court shall extend to all elections held within the county, by whatever authority the election may be ordered, but the court may exercise this authority with respect to such elections as it deems necessary or desirable without advancing or retarding the opening hour for other elections, subject to the requirement that the court's order must apply uniformly to comparable types of elections held on the same day; and the order shall specify the elections to which it applies. The election shall be held for one day only.

All persons who are within the polling place and all persons who are waiting to enter the polling place at seven o'clock p. m. shall be allowed an opportunity to present themselves for voting in the same manner as if they had appeared and offered themselves for voting during regular voting hours. The presiding judge shall take necessary precautions to prevent voting by any person not present and waiting to vote at the time for official closing of the polls. If feasible, all persons waiting to vote at the time for official closing of the polls shall be required to enter the polling place, and the door to the polling place shall be closed and locked, and each such person shall remain inside the polling place until he has voted.

If such procedure is not feasible, numbered identification cards or tokens shall be distributed to identify those persons waiting to vote at the time for official closing of the polls. As amended Acts 1961, 57th Leg., p. 125, ch. 68, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 6.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2.02. Formation of election precincts; consolidation for certain elections

Unless a specific statute provides otherwise, the following rules shall govern the establishment of election precincts and the designation of polling places for the conduct of the various kinds of elections held within this state.

(a) County-wide elections held at the expense of the county. In general elections for state and county officers, special elections called by the Governor (including both county-wide elections and elections to fill vacancies in offices elected by districts which are less than county-wide), and all other county-wide elections held at the expense of the county, the election precincts shall be the regular election precincts established by the commissioners court pursuant to Section 12 of this Code.¹

(b) Municipal elections. The governing body of each incorporated city or town shall establish the election precincts and designate the polling places for elections held by such city or town, in accordance with the provisions of Section 13 of this Code.²

(c) Elections held by other political subdivisions. In elections held by other political subdivisions (including but not limited to school districts, junior college districts, districts created pursuant to Article III, Section 52 or Article XVI, Section 59 of the Constitution of Texas, and other similar districts), the governing body of the political subdivision shall establish the election precincts and designate the polling places for elections held by such subdivision.

(d) Elections held by the county, which affect another political subdivision. In any election called by the commissioners court or the county judge in connection with or relating to the creation, organization, reorganization, functioning or existence of a municipality or of a political subdivision described in Paragraph (c) of this section, the authority calling the election shall designate the election precincts and the polling place in each precinct for such election.

(e) Other elections held by the county. In any other special election called by the commissioners court or the county judge which is ordered for only part of the county, the authority calling the election shall designate the election precincts and the polling place in each precinct for such election.

(f) Primary elections. In all primary elections held by political parties for nominating candidates to be voted on at general and special elections held at the expense of the county, the election precincts shall be the county election precincts established by the commissioners court pursuant to Section 12 of this Code.

(g) In any election for nomination or election of an officer or officers, at which there is no office to be voted on by the voters of only one county or a part of one county, the authority holding the election may combine any two or more regular election precincts into consolidated precincts for such election if it appears that the voters included within a con-

solidated precinct can be adequately and conveniently served at one polling place.

(h) All election precincts, by whatever authority established, shall be described by natural or artificial boundaries or survey lines, and shall be designated by name or number. There shall be one polling place, and no more, for each election precinct, and the notice of the election shall state the location of the polling place in each precinct. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 7.

¹ Article 2.04.

² Article 2.05.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2.04. County election precincts formed by commissioners court

Each county shall be divided into convenient election precincts by the commissioners court of the county, each of which precincts shall be differently numbered and described by natural or artificial boundaries or survey lines by an order entered upon the minutes of the court. At any July or August term, the court may make such changes in the election precincts as they deem proper, by such order entered upon the minutes of the court. When such an order is entered, they shall immediately thereafter publish in some newspaper in the county for three consecutive weeks a notice of the entry of such order, giving a brief description in general terms of the changes made, without the necessity of including in such notice the field notes or other detailed description of the precinct boundaries. If there be no newspaper in the county, then a copy of such order shall be posted in some public place in each election precinct in the county which is affected by the order.

No election precinct shall be formed out of two or more justice precincts or commissioners precincts, nor out of the parts of two or more justice precincts or commissioners precincts. No election precinct shall have resident therein more than two thousand voters as ascertained by the current certified lists of qualified voters; provided, however, that in precincts in which voting machines have been adopted for use, the maximum number of voters shall be three thousand.

In cities and towns having ten thousand or more inhabitants, each ward shall constitute an election precinct unless there shall reside in said ward more than two thousand qualified voters. In such cities and towns, no precinct shall be made out of parts of two wards, and no precinct shall include territory outside the corporate limits of the city or town.

In cities, towns and villages of less than ten thousand inhabitants, the justice precincts and commissioners precincts in which the city, town, or village is situated may be divided into election precincts without regard to the wards or the corporate limits of the city, town or village.

Changes in election precincts shall not become operative in the holding of elections until February first of the following year. The commissioners court shall cause to be made out and delivered to the county tax collector before the first day of each September a certified copy of such last order for the year following. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 7.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 2.05. Election precincts for municipal elections

The election precincts for municipal elections and the location of the polling place in each precinct shall be designated by the governing body of the municipality. The governing body may combine two or more county election precincts into one municipal precinct, but shall not include parts of one county precinct in more than one municipal precinct. The certified list of qualified voters for all county election precincts in which voters reside who are to vote at a polling place designated by the governing body shall be used at such polling place. In all cities and towns in which the number of voters at the last general municipal election does not exceed four hundred in number, only one polling place shall be opened at any municipal election; and all officers of such cities and towns to be elected shall be voted for at such polling place. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 7.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER THREE—OFFICERS OF ELECTION**Art. 3.01. Appointment of election officers**

(a) For county elections. The commissioners court at its February term shall appoint from among the citizens of each election precinct one qualified voter as presiding judge of elections held at the expense of the county in that precinct and one qualified voter as alternate presiding judge, each of whom shall continue to act until his successor is appointed. Whenever a vacancy arises in either of such offices, the commissioners court may fill the vacancy at any regular or special term of court. All orders appointing judges and alternates shall be entered of record. Each presiding judge shall appoint two qualified voters, who are residents of the precinct, to serve as election clerks, and shall appoint for each election as many additional clerks as he deems necessary for the proper conduct of the election, not to exceed the maximum number authorized by the commissioners court. The commissioners court shall fix the maximum number of clerks which may be appointed for each precinct, and may fix different maximums depending on the type of election. The clerks shall be selected from different political parties, when practicable.

(b) For municipal elections. Unless a different method is prescribed by the city charter, the mayor, or if he fails to do so, then the governing body of the municipality, shall appoint for each municipal election precinct a presiding judge and an alternate presiding judge for elections held by such municipality and shall fix the maximum number of clerks which may be appointed to serve in each precinct, which shall be not less than two; and the presiding judge for each precinct shall appoint two clerks, and as many additional clerks within the authorized limit as he deems necessary for the proper conduct of the election, who shall be selected from different political parties when practicable.

(c) For elections held by other political subdivisions. In any election held by a political subdivision other than a city or a county, the statutes pertaining to the particular type of election shall govern the appointment of election officers if such statutes provide for their appointment. In the absence of such provisions, the governing body of the subdivision shall appoint a presiding judge and an alternate presiding judge for each election precinct of the subdivision and shall fix the maximum number of clerks which may be appointed to serve in each precinct, which

shall be not less than two; and the presiding judge for each precinct shall appoint two clerks and as many additional clerks within the authorized limit as he deems necessary for the proper conduct of the election.

(d) For primary elections. The primary elections of a political party shall be conducted in each precinct by a presiding judge, to be appointed by the chairman of the county executive committee of the party, with the assistance and approval of a majority of the members of the county executive committee. The presiding judge shall select two clerks to assist in conducting the election; and additional clerks may be appointed under such rules as may be made by the county executive committee. An alternate presiding judge shall be appointed for each precinct in like manner as the presiding judge.

(e) Alternate judge to preside. Whenever the regularly appointed presiding judge is unable to serve at an election, the alternate presiding judge shall serve as the presiding judge for that election. In any election conducted by the regularly appointed presiding judge, he shall appoint the alternate presiding judge as one of the clerks to serve at such election. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 8.

Effective 90 days after May 24, 1963, date where voting machines are used, see art. of adjournment. 7.14, § 24.

Appointment and compensation of election officers and watchers for precincts Watchers, appointment, see art. 3.05.

Art. 3.02. Duties and working hours of clerks

In all elections, general, special, or primary, the presiding judge shall be in charge of the management of the polling place and the conduct of the election. He shall designate the working hours and assign the duties to be performed by the clerks. Clerks may be assigned to work for different lengths of time and to begin work at different hours during the day while the polls are open or during the time necessary for counting the ballots after the polls are closed. Clerks who begin work at any time before closing of the polls shall remain on duty without leaving the polling place while the polls are open, except for such periods of absence for meals and other necessary reasons as may be permitted by the presiding judge.

One or more clerks shall be assigned to assist in checking the names of voters on the list of qualified voters, keeping the poll list, and performing such other duties as are necessary in receiving the voters and supervising the deposit of the voted ballots. At every election there shall be kept a poll list in the number of copies required by law, consisting of one original and carbon copies thereof, on which an election officer shall enter the name of each voter at the time he votes.

In elections where paper ballots are used, the ballots shall be counted by one or more sets of counting officers, each set to consist of one judge or clerk who shall read the ballots, and one or more clerks who shall enter the votes on tally lists prepared for the election. As a safeguard in the accuracy of the tallying, the votes shall be entered on three original tally lists, and during the progress of the counting the lists shall be compared and errors and discrepancies shall be corrected, and at the close of the counting the tally clerks shall certify officially to the correctness of the lists.

The clerks may be assigned to perform such other duties as the presiding judge shall direct. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 8.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 3.03. Qualifications of judges, clerks and watchers

All judges and clerks of any general, special, or primary election shall be qualified voters of the election precinct in which they are named to serve. In any general, special, or primary election all watchers shall be qualified voters of the county if the election is county-wide, and shall be qualified voters of the city or other political subdivision in which the election is held if less than county-wide, but it shall not be necessary that they reside within the election precinct in which they are named to serve.

No person shall serve as a judge or a clerk in any election, general, special, or primary, who is employed by any candidate for a lucrative office, whose name appears on the ballot in that election, or who is related to such candidate within the third degree either by affinity or consanguinity.

No watcher shall be an employee or employer of any election judge or clerk in the election precinct in which he is named to serve, or related to any such official within the third degree either by affinity or consanguinity. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 9.

Effective 90 days after May 24, 1963, date of adjournment. Poll watchers, definition, see art. 1.01a.

Art. 3.04. Disqualifications

No one who holds an office of profit or trust under the United States or this state, or any city or town in this state, or within thirty days after resigning or being dismissed from any such office, except a notary public, or who is a candidate for public office, or who is not a qualified voter, shall act as judge, clerk, or watcher of any election, general, special, or primary. The offices referred to in the preceding sentence do not include offices of a political party, and no one shall be disqualified to act as judge, clerk, or watcher at an election by reason of his holding or being a candidate for the office of county chairman or precinct chairman or other office of a political party.

No one shall act as chairman or as member of any district, county, or city executive committee of a political party who is not a qualified voter, or who is a candidate for public office, or who holds any office of profit or trust, either under the United States or this state, or any city or town in this state. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 9.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 3.05. Appointment of watchers

(a) By political parties. The chairman of the county executive committee for each political party that has a nominee or nominees on the official ballot at any general or special election, or, if the chairman failed to act, any three members of such committee, may appoint one watcher for each election precinct by delivering to the watcher, prior to the day of the election, a written certificate of his appointment setting forth the name of the person appointed and the number of the precinct where

such watcher is to serve. The certificate shall bear the signature of the chairman or committee members making the appointment together with the signature of the appointee.

(b) By candidates. Any five or one-fifth of the candidates, whichever is less, whose names appear on the official ballot of any general, special, or primary election may appoint two watchers for each election precinct in which the names of such candidates appear on the ballot, by delivering to each such watcher appointed by them, prior to the day of the election, a certificate of his appointment setting forth the name of the person appointed and the number of the precinct where such watcher is to serve. The certificate shall be signed personally by the candidates making the appointment and shall also bear the signature of the appointee. The assistant campaign manager of any candidate for state or district office, designated in accordance with Section 238 of this Code,¹ may act on behalf of the candidate he represents in the appointment of watchers in the county for which he has been named assistant campaign manager, and certificates executed by him shall bear his signature as agent for the candidate, in lieu of the candidate's signature.

(c) By voters. In any general, special, or primary election, the qualified voters in an election precinct may appoint two watchers for that precinct on behalf of any announced candidate who does not appoint or join in the appointment of a watcher or watchers for such precinct under the provisions of Paragraph (b) of this section, by delivering to each watcher appointed by them, prior to the day of the election, a certificate of appointment setting forth the name of the person appointed, the number of the precinct where such watcher is to serve, and the name of the candidate on whose behalf the appointment is made. The certificate shall be signed by fifty qualified voters or five per cent of the qualified voters of the precinct as determined by the number of voters appearing on the list of qualified voters, whichever is the lesser number, and shall also bear the signature of the appointee; and the candidate, or his assistant campaign manager for the county in which the precinct is located if he be a candidate for a state or district office, shall endorse thereon a signed statement that the appointment is made with his consent. To every voter who signs such certificate shall be administered an oath, which shall be reduced to writing and attached to or made a part of the certificate, that the signer is a qualified voter at the election and in the precinct for which the appointment is made. One certificate of the officer before whom the oath is taken may be so made as to apply to all to whom it was administered. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 10.

¹ Article 14.02.

Effective 90 days after May 24, 1963, date of adjournment.

Election officers, appointment, see art. 3.01.

Appointment of watchers to observe conduct of absentee voting in county clerk's office, see art. 5.05, subd. 3.

Art. 3.06. Watchers at elections on questions or propositions

Whenever any question or proposition is to be voted on at any election in this state, voters favoring the proposition may procure the appointment of two watchers, and voters opposing the proposition may procure the appointment of two watchers, for each election precinct in which the proposition is to be voted on, by complying with the procedure set forth in this section. A petition signed by fifty qualified voters or five per cent of the qualified voters of the precinct as determined by the number of voters appearing on the list of qualified voters, whichever is the lesser number,

shall state whether the signers favor or oppose adoption of the proposition, and shall state the name and address of the person or persons whom they wish to be appointed. To every voter who signs the petition shall be administered an oath, which shall be reduced to writing and attached to or made a part of the petition, that the signer is a qualified voter at the election and in the precinct for which the appointment is requested. One certificate of the officer before whom the oath is taken may be so made as to apply to all to whom it was administered.

In state-wide elections, and in all elections ordered by the commissioners court or the county judge, the petition shall be presented to the county judge. In municipal elections, it shall be presented to the mayor, and in all other elections it shall be presented to the presiding officer of the board or body ordering the election. The petition shall be presented to the proper officer not later than the third day prior to election day. If the officer to whom the petition is presented finds that it complies with the foregoing requirements, that the signers of the petition are good-faith representatives of the side of the issue which they purport to represent, and that the person or persons whose appointment is requested are qualified to serve as watchers, he shall issue a certificate of appointment to each of the persons whose appointment is requested, setting forth the name of the person appointed and the number of the precinct where such watcher is to serve. The certificate shall bear the signature of the appointing officer together with the signature of the appointee.

Not more than two watchers representing the same side of a question or proposition shall be appointed in a precinct. If more than one petition is filed by voters representing the same side of the issue, preference shall be given in accordance with the order of filing.

The provisions of this section shall not apply to referendum propositions submitted at party primary elections. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 10.

Effective 90 days after May 24, 1963, date of adjournment.

Appointment of watchers to observe conduct of absentee voting in county clerk's office, see art. 5.05, subd. 3.

Art. 3.07. Service, duties, and privileges of watchers

Each watcher shall be present at the polling place on election day when the polls are opened, and shall remain on duty without leaving the polling place until the polls are closed, except for such periods of absence for meals or other necessary reasons as may be permitted by the presiding judge. If the presiding judge permits the clerks to leave the polling place for meals or other necessary reasons during the time the polls are open, he must accord the same privilege to watchers. A watcher who leaves the polling place without proper authorization while the polls are open shall not be permitted to resume service. A watcher who leaves the polling place after the polls are closed shall be permitted to resume his service at any time thereafter until the election officers have completed their duties.

On election day, the watcher shall present his certificate of appointment to the presiding judge of the precinct where he is to serve, and the presiding judge shall require the watcher to countersign the certificate to make certain he is the identical person referred to in the certificate. The presiding judge shall preserve the certificate and deliver it with other records of the election to the officer who has custody of the voted ballots, to be preserved by him for the length of time provided by law for preservation of the voted ballots.

Before commencing his service, each watcher shall take an oath, to be administered by the presiding judge, that he will mention and note any errors he may see in testing the voters, or counting the votes, or making out the returns, that he will well and truly discharge his duties as watcher impartially, and will report in writing all violations of the law and unrectified irregularities that he may observe to the authority which canvasses the returns of the election, and, if he deems it desirable, to the next grand jury.

Each watcher appointed in accordance with this Code shall be permitted to sit conveniently near the judges or clerks so that he can observe the conduct of the election, including but not limited to the reading of the ballots, the tallying and counting of the votes, the making out of the returns, the locking of the ballot boxes, their custody and safe return. He shall also be permitted to be present when assistance is given by any election judge in the marking of the ballot of any voter not able to mark his own ballot, to see that the ballot is marked in accordance with the wishes of the voter, but he must remain silent except in cases of irregularity or violation of the law. He shall not be permitted to enter into any conversation with the judges or clerks regarding the election while it is progressing, except to call the attention of the judges or clerks to any irregularity or violation of the law that he may observe. The watcher shall call the attention of officers holding the election to any fraud, irregularity or mistake, illegal voting attempted, or other failure to comply with the laws governing such election at the time it occurs, if practicable, and if he has knowledge thereof at the time, and such complaint shall be reduced to writing and a copy delivered to the Election Judge.

No watcher shall give any advice of any kind to any voter, or hold any conversation or discussion with any voter, or communicate with or signal to any voter in any manner, or interfere with any voter in any manner whatsoever.

In addition to the foregoing duties and privileges, each watcher serving at an election where voting machines are used shall also have the duties and privileges of watchers as set forth in Section 79 of this Code.

Watchers appointed to observe absentee voting may be appointed in the same manner as watchers appointed to serve at regular polling places, and may serve at such hours as they desire.

The authority holding the election shall not pay for the services of watchers, but they may be paid by the interest they represent. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 10.

Effective 90 days after May 24, 1963, date of adjournment.

Appointment of watchers to observe conduct of absentee voting in county clerk's office, see art. 5.05, subd. 3.

Art. 3.08. Pay of judges and clerks

In all elections, general, special, or primary, by whatever authority conducted, the rate of pay for judges and clerks of the election shall be determined by the appropriate authority, but shall not exceed one dollar per hour for each judge or clerk. In precincts where voting machines are used, no judge or clerk shall be paid for any period of time in excess of two hours after voting has been concluded. The judge who delivers the returns of election may be paid an amount not to exceed two dollars for that service; provided, also, he shall make returns of ballots, ballot boxes, and election supplies not used when he makes returns of the election.

In elections held at the expense of a county, the rate of pay shall be determined by the commissioners court of the county where such services

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are rendered. In elections held at the expense of a city, school district, or other political subdivision, the governing body of the city, district or political subdivision shall determine the rate. In primary elections, the rate shall be determined by the county executive committee of the party conducting the primary election.

The compensation of judges and clerks of general and special elections shall be paid by the authority responsible for the expenses of the election, upon presentation of claims for such services approved in the manner required for other claims against its funds.

The provisions of this section shall control over all other statutes relating to pay of election judges and clerks in any type of election whatsoever, and all other statutes are hereby repealed to the extent of any conflict with this section. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 11.

Effective 90 days after May 24, 1963, date of adjournment.

Appointment and compensation of election officers and watchers for precincts where voting machines are used, see art. 7.14, § 24.

CHAPTER FOUR—ORDERING ELECTIONS

Art. 4.07. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(a).
Eff. 90 days after May 24, 1963, date of adjournment

CHAPTER FIVE—SUFFRAGE

Art.

5.02a. Voting for federal offices [New].

Art. 5.01. Classes of persons not qualified to vote

The following classes of persons shall not be allowed to vote in this state:

1. Persons under twenty-one years of age.
2. Idiots and lunatics.
3. All paupers supported by the county.
4. All persons convicted of any felony except those restored to full citizenship and right of suffrage or pardoned. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 12.

Effective 90 days after May 24, 1963, date of adjournment.

Qualified voter, definition, see art. 1.01a.

Art. 5.02. Qualification and requirements for voting

Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one 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 months within the district or county in which such person offers to vote, shall be deemed a qualified elector, 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 and hold a receipt showing that said poll tax was paid before the first day of February next preceding such election, and any voter who is exempt from paying a poll tax must procure a certificate showing his or her exemption, as required by this Code. If such voter shall have lost or misplaced said tax receipt or certificate of exemption, 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 or such certificate was obtained in the manner and during the time allowed by law preceding such election at which he or she offers to vote, and that such receipt or certificate has been lost, misplaced, or left at home.

Notwithstanding any other provision of this section, any member of the Armed Forces of the United States or component branches thereof who is on active duty in the military service of the United States may vote only in the county in which he or she resided at the time of entering such service so long as he or she is a member of the Armed Forces. This restriction applies only to members of the Armed Forces who are on active duty, and the phrase "time of entering such service" means the time of commencing the current active duty. A re-enlistment after a temporary separation from service upon termination of a prior enlistment shall not be construed to be the commencement of a new period of service, and in such case the county in which the person resided at the time of commencing active service under the prior enlistment shall be construed to be the county of residence at the time of entering service.

The provisions of this section 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 1963, 58th Leg., p. 1017, ch. 424, § 13.

Effective 90 days after May 24, 1963, date of adjournment.

Amendment of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 1 was conditioned upon the adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, held at

election on Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg. p. 1103, ch. 430, § 1 did not become effective or operative as a law.

Qualified voter, definition, see art. 1.01a.

Art. 5.02a. Voting for federal offices

Subdivision 1. Qualification and requirements for voting for federal offices. Notwithstanding any other provision of this Code or of the Constitution of this state, the payment of the poll tax shall not be required as a condition for voting for United States Senator, for United States Representative (including Congressman-at-Large), or for President and Vice-President or electors for President and Vice-President of the United States, in any general, special, or primary election. To be eligible to vote for such offices, a person must be a qualified elector under the Constitution and laws of this state in all other respects. If he is not subject to payment of the poll tax, he must have obtained an exemption certificate in accordance with the provisions of this Code if he is required to hold an exemption certificate as a condition for voting generally. If he is subject to payment of the poll tax, he must have paid the tax and obtained a receipt therefor prior to the first day of February preceding the election; or he must have obtained a poll tax receipt without payment of the tax, in the manner and within the time provided in Subdivision 2 of this section.

Subdivision 2. Issuance of poll tax receipts without payment of the tax. A person who is subject to payment of the poll tax and who is in other respects a qualified elector may apply to the tax collector of the county of his residence at any time between the first day of October and the thirty-first day of January following for issuance of a poll tax receipt without payment of the tax, to be used to identify him in voting for offices enumerated in Subdivision 1 of this section during the voting year beginning on the first day of February thereafter; provided, however, that a receipt to identify the voter at elections held during the voting year in which this

section takes effect may be obtained at any time within the period of thirty days after the effective date, but must have been obtained at least four days before any election at which he offers to vote; and if this section takes effect during the month of January, a receipt to identify the voter at elections held during the ensuing voting year may be obtained at any time within the period of thirty days after its effective date. The applicant shall furnish to the tax collector all the information necessary to enable the tax collector to fill out the blanks in the poll tax receipt, and the tax collector shall issue the receipt as in cases where the poll tax is paid, except that he shall place the following notation on the face of the original and duplicate receipt: "Poll tax not paid." The application may be made in either of the manners authorized in Section 43 of this Code,¹ and all laws pertaining to issuance of poll tax receipts shall apply to issuance of receipts without payment of the tax insofar as they can be made applicable, except as otherwise provided in this section. At the time the tax collector makes up the lists of qualified voters, he shall make up separate lists of those persons to whom poll tax receipts have been issued without payment of the tax and shall furnish the lists to the election boards at the same time that he furnishes other lists.

Subdivision 3. Voting on receipts issued without payment of the tax. A person subject to payment of the poll tax who has obtained a receipt without payment of the tax shall not be eligible to vote at any election or on any office or proposition except at elections for the offices enumerated in Subdivision 1 of this section. When such persons offer to vote, the election officers shall enter their names of a separate poll list and shall furnish them with a ballot containing only the offices and candidates on which they are entitled to vote. When other offices or propositions are to be voted on at the same election, the election officers may provide separate ballots listing only the federal offices to be voted on, or may use the regular ballots prepared for the election, from which all other offices and propositions have been stricken. When the ballot is to be cast on a voting machine, all other offices and propositions shall be locked out before the voter enters the machine. The returns of the election shall show, separate from other voters, the number of persons voting on poll tax receipts issued without payment of the tax. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 34a added Acts 1963, 58th Leg., p. 1103, ch. 430, § 7.

¹ Article 5.11.

Conditional Enactment

Effective on date of publication of the certifying statement of Administrator of General Services that amendment to the Constitution of the United States proposed by Senate Joint Resolution No. 29 of the 87th Congress of the United States has become part of the Constitution of the United States prior to adoption of proposed amendment of the Texas Constitution. See, note, post.

The title to Acts 1963, 58th Leg., p. 1103, ch. 430, § 7, which added this article to the Election Code, provided:

"This section of this Act shall become effective and operative as a law only upon the condition that the amendment to the Constitution of the United States proposed by Senate Joint Resolution No. 29 of the 87th Congress of the United States becomes a part of the Constitution of the United States prior to an amendment of the Constitution of the State of Texas abolishing payment of the poll tax as a prerequisite for voting, in which event this

section shall take effect on the date of publication of the certifying statement of the Administrator of General Services that the amendment had become valid as a part of the Constitution of the United States. If such amendment to the Constitution of the United States is not adopted, or is adopted after the amendment of the Constitution of Texas as aforesaid, this section shall not become effective or operative in whole or in part. In the event this section becomes operative and Sections 1 through 5 of this Act also become operative, this section shall expire on the

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date that Sections 1, 3, and 4 of this Act take effect. Subject to the foregoing conditions, the Election Code of the State of Texas is amended by adding thereto a new section numbered Section 34a, to read as follows:"

Sections 1-5 of Acts 1963, 58th Leg., p. 1103, ch. 430, amended article 5.02, repealed articles 5.09-5.24 and enacted articles 5.-

09a-5.24a on condition that amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, be adopted at election held on Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore section 1-5 of the Act did not become effective or operative as laws.

Art. 5.05. Absentee voting

Subdivision 1. Who may vote absentee. Any qualified voter of this state who expects to be absent from the county of his residence on the day of the election, or who because of sickness or physical disability cannot appear at the polling place in the election precinct of his residence on the day of the election, may nevertheless cause his vote to be cast at any election held in this state by compliance with the applicable method herein provided for absentee voting.

Absentee voting shall be conducted by two methods: (1) voting by personal appearance at the clerk's office, and (2) voting by mail. All voters coming within the foregoing provisions of this subdivision may vote by personal appearance at the clerk's office if they are able to make such appearance within the period for absentee voting. The following persons, and no other, may vote by mail:

(i) Qualified voters who because of sickness or physical disability cannot appear at the polling place on the day of the election. The application for an absentee ballot shall be made not more than sixty days before the day of the election. It must be mailed to the clerk, and the clerk shall preserve the envelope in which it is received. If the application is delivered to the clerk by any method other than by mailing it to him, the ballot shall be void and shall not be counted. The voter shall state in his application the address to which the ballot is to be mailed to him, which must be either his permanent residence address or the address at which he is temporarily living. If the ballot is furnished to the voter by any method other than by mailing it to him, or if it is mailed to any address other than one of the foregoing, it shall be void and shall not be counted. The marked ballot must be mailed to the clerk, and if returned in any other manner it shall be void and shall not be counted.

(ii) Qualified voters who, before the beginning of the period for absentee voting, make application for an absentee ballot on the ground of expected absence from the county of their residence on election day, and who expect to be absent from the county during the clerk's regular office hours for the entire period for absentee voting. The voter must state in his application that he expects to be absent from the county of his residence on election day and during the clerk's regular office hours for the entire period for absentee voting. The application shall be made not more than sixty days before the day of the election, and may be mailed to the clerk or delivered to him by the voter in person, but the clerk shall not furnish a ballot to the voter by any method other than by mailing it to him. Applications made under this paragraph may be mailed either from within or without the county of the voter's residence, but in every case the ballot must be mailed to the voter at an address outside the county. The ballot shall not be counted unless the carrier envelope in which the ballot is returned to the clerk is postmarked from a point outside the county and the affidavit on the carrier envelope is certified by an officer other than an officer of the county of the voter's residence.

(iii) Qualified voters who, after the beginning of the period for absentee voting, apply for an absentee ballot on the ground of expected absence from the county and who are absent from such county at the time of applying for an absentee ballot and expect to be absent from such county during the clerk's regular office hours for the remainder of the period for absentee voting. The voter must state in his application that he is absent from the county at the time of making the application and expects to be absent on election day and during the clerk's regular office hours for the remainder of the period for absentee voting. The clerk shall not mail a ballot to any such voter unless the envelope in which the application received is postmarked from a point outside the county, and the ballot must be mailed to the voter at an address outside the county. The ballot shall not be counted unless the envelope in which the application is received and the carrier envelope in which the ballot is returned to the clerk are each postmarked from a point outside the county and the affidavit on the carrier envelope is certified by an officer other than an officer of the county of the voter's residence.

An application for an absentee ballot to be voted by mail shall state the applicant's permanent address and the address to which the absentee ballot is to be mailed to the applicant, and shall also state the address to which his poll tax receipt or exemption certificate is to be mailed back to him. As amended Acts 1959, 56th Leg., p. 1055, ch. 483, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

Subdivision 1a. Elections to which applicable; officer to conduct absentee voting. The provisions of this section shall apply to all elections, general, special, or primary. In general and special elections held at the expense of the county, and in primary elections held by political parties for nominating candidates to be voted on at general and special elections held at the expense of the county, the absentee voting shall be conducted by the county clerk. In municipal elections, the absentee voting shall be conducted by the city secretary or city clerk.

In elections held by school districts, conservation districts, and other defined districts and political subdivisions authorized to hold elections in this state, the absentee voting shall be conducted by a clerk for absentee voting, to be appointed by the governing board of this subdivision, which may also appoint such number of deputy clerks as it deems necessary to assist in the conduct of the absentee voting. Each clerk and deputy clerk shall be a qualified voter in the subdivision. Persons in the employment of the board shall be eligible for appointment, if otherwise qualified. The board shall designate the place at which the absentee voting shall be conducted, which shall be at the office of the board or at some other public place within the boundaries of the subdivision. The board shall designate the hours during which the clerk shall keep the office open, which for the purposes of this section shall constitute the clerk's regular working hours, and shall require that the office remain open for at least eight hours on each day for absentee voting which is not a Saturday, a Sunday, or an official state holiday. The place and hours for absentee voting shall be stated in the order calling the election and in the election notice. The compensation of the clerk and deputy clerks shall be fixed by the board and shall be paid out of the same fund that other expenses of the election are paid. Employees of the board who are designated as clerks or deputy clerks for absentee voting may be required to perform these duties without additional compensation.

In every election, the absentee voting shall be conducted under the same rules and in the same manner provided in this section for absentee

voting conducted by the county clerk, and all references to the county clerk shall be deemed to mean the appropriate officer for conducting the absentee voting in that election unless the context clearly requires a different construction. Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

Subdivision 2. Application for ballot. A voter desiring to vote absentee shall make written application for an official ballot to the county clerk of the county of his residence, which application shall be signed by the voter, or by a witness at the direction of the voter in case of the latter's inability to make such application because of physical disability. The application shall state the ground on which the applicant is entitled to vote absentee, and in case of an application to be voted by mail, it shall also state the additional information required by Subdivision 1 of this section. In case of an application to vote absentee by personal appearance, except where the voted ballot is to be placed in a carrier envelope, the application shall contain or have attached thereto an affidavit signed by the applicant, in substantially the following form:

I, _____, do solemnly swear that I am a resident of Precinct No. ____, in _____ County, and am lawfully entitled to vote at the _____ election to be held in said precinct on the ____ day of _____, 19____, and that I am prevented from appearing at the polling place in said precinct on the date of the election because of _____ (voter to signify sickness, physical disability, or expected absence from county).

(Signature of voter)

By:

(Signature of witness who assisted voter in event of physical disability)

The application shall be accompanied by the poll tax receipt or exemption certificate of the voter, or in lieu thereof, his affidavit in writing that same has been lost or mislaid or has been used for applying for an absentee ballot in another election (stating the nature and date of the election) and has not been returned to him. If the ground of application is sickness or physical disability by reason of which the voter cannot appear at the polling place on election day, a certificate of a duly licensed physician or chiropractor or accredited Christian Science practitioner certifying to such sickness or physical disability shall accompany the application, which certificate shall be in substantially the following form:

This is to certify that I have personal knowledge of the physical condition of _____, and that because of sickness or physical disability he (she) will be unable to appear at the polling place for an election to be held on the _____ day of _____, 19____.

Witness my hand at _____, Texas, this _____ day of _____, 19____.

(Signature of practitioner)

Expected or likely confinement for childbirth on election day shall be sufficient to entitle a voter to vote absentee on the ground of sickness or physical disability, and a physician executing a certificate for a pregnant woman may state in the certificate that because of pregnancy and possible delivery she will be or may be unable to appear at the polling place on election day.

Any person who requests a physician, chiropractor, or Christian Science practitioner to execute a certificate for another person without

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having been directed by such other person to do so, and any physician, chiropractor, or Christian Science practitioner who knowingly executes a certificate except upon the request of the voter named therein or upon the request of someone at the voter's direction, or who knowingly delivers a certificate except by delivering it to the voter in person or by mailing it to the voter at his permanent residence address or the address at which he is temporarily living, or who knowingly falsifies a certificate, shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned in the county jail for not more than thirty days, or both so fined and imprisoned. As amended Acts 1959, 56th Leg., p. 1055, ch. 483, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

Subdivision 2a. Absentee voting by members of the Armed Forces, etc. Notwithstanding any provision of Subdivision 1 or Subdivision 2 of this section, any qualified voter within any of the following categories shall be entitled to vote absentee by mail upon making application by mail for an absentee ballot on an official Federal Post Card Application for Absentee Ballot, and no further statement of his eligibility to vote absentee by mail shall be required of him, provided the application is mailed from outside the county and the ballot is to be mailed to an official address outside the county:

(1) Members of the Armed Forces of the United States and their spouses and dependents residing with or accompanying them.

(2) Members of the Merchant Marine of the United States and their spouses and dependents residing with or accompanying them.

(3) Members of religious or welfare organizations assisting servicemen and their spouses and dependents residing with or accompanying them.

(4) Civilians employed by the United States Government outside the territorial limits of the United States, and their spouses and dependents residing with or accompanying them.

The foregoing provisions shall not be construed as preventing the clerk from accepting a Federal Post Card Application for Absentee Ballot from any other person who is permitted by Federal law to use such application form, but unless the applicant comes within the foregoing provisions he shall furnish the information required by Subdivision 2 of this section in addition to the information regularly supplied on the Federal Post Card Application and shall be subject to all of the provisions of Subdivision 1 of this section pertaining to absentee voting by mail.

A poll tax receipt or exemption certificate accompanying a Federal Post Card Application shall be mailed back to the voter at the official address to which the ballot was mailed, unless the voter requests the clerk to mail it to some other address. Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

Subdivision 3. Period for voting by personal appearance. The period for absentee voting by personal appearance shall begin on the twentieth day and shall continue through the fourth day preceding the date of the election; provided, however, that when the twentieth day falls on a day which is not a regular working day for the clerk's office, the absentee voting by personal appearance shall begin on the next succeeding regular working day. The clerk shall not permit anyone to vote absentee by personal appearance on any day which is not a regular working day for the clerk's office or at any time when his office is not open to the public.

At any time within the period for absentee voting, a voter who is eligible to vote absentee may do so by making his personal appearance before the county clerk of the county of his residence at the office of the clerk and delivering to such clerk his application aforesaid.

Watchers, as provided for in Sections 19, 20, and 21 of this Code,¹ may be appointed to observe the conduct of absentee voting in the clerk's office. As amended Acts 1959, 56th Leg., p. 1055, ch. 483, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

¹ Articles 3.05, 3.06 and 3.07.

Subdivision 3a. Voting by personal appearance in county-wide elections. In a county-wide election, or in an election less than county-wide where the authority holding the election has provided that absentee voting by personal appearance shall be conducted on a voting machine or that absentee paper ballots shall be counted by a special canvassing board, upon receipt of an application for an absentee ballot to be voted by personal appearance, if the clerk is satisfied as to the right of the applicant to vote, the clerk shall place a notation on the list of qualified voters showing that the particular person has voted absentee and shall enter the voter's name on a poll list of absentee voters. He shall make a notation on the voter's poll tax receipt or exemption certificate that the voter has voted absentee in the election, shall note the number of the receipt or certificate on the application, and shall return the receipt or certificate to the voter. The application shall be preserved in the clerk's office for the length of time provided by law for preservation of voted ballots.

In the conduct of absentee voting under this subdivision, the clerk shall possess the same power as a presiding judge with respect to examination and acceptance of a voter. If the right of an applicant to vote is challenged, the procedure prescribed in Section 91 of this Code¹ shall be followed.

Where paper ballots are used for absentee voting, after a voter has been accepted, the clerk shall furnish the voter with an official ballot which has been prepared in accordance with law for use in such election. The voter shall then and there, in the office of the clerk, mark his ballot and detach and sign the ballot stub, and shall deposit the ballot in a ballot box and the stub in a stub box in the manner provided in Section 97 of this Code. The ballots shall be deposited in a ballot box locked with two locks, the keys of one of which shall be kept during the period for absentee voting by the sheriff and the keys of the other by the county clerk. The stubs shall be deposited in a stub box prepared in accordance with Section 97 of this Code.²

Where a voting machine is used for absentee voting by personal appearance, after a voter has been accepted, he shall then be permitted to cast his ballot on the voting machine. Returns of absentee votes cast on a voting machine shall be made under the appropriate provision of Section 79 of this Code.³ Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

¹ Article 8.09.

² Article 8.15.

³ Article 7.14.

Subdivision 3b. Voting by personal appearance in elections less than county-wide. In an election less than county-wide in which absentee paper ballots are to be sent to the regular polling places for counting, upon receipt of an application for an absentee ballot to be voted by personal appearance, the clerk shall thereupon furnish to the voter the following absentee voting supplies:

(1) One official ballot which has been prepared in accordance with law for use in such election.

(2) One ballot envelope, which shall be a plain envelope, without any markings except the words "Ballot Envelope" printed on the face thereof, followed by the instructions contained in this subdivision and Subdivision 4 for marking the ballot, for placing it in the carrier envelope, and for returning a ballot to be voted by mail, together with a statement of the deadline for placing the ballot in the mail and for delivery to the clerk's office in that election.

(3) One carrier envelope, upon the face of which there shall appear the words "Carrier Envelope for Absentee Ballot" and the name, official title, and post office address of the county clerk, and upon the other side a printed affidavit in substantially the following form:

I, _____, do solemnly swear that I am a resident of Precinct No. _____, in _____ County, and am lawfully entitled to vote at the _____ election to be held in said precinct on the _____ day of _____, 19____; that I am prevented from appearing at the polling place in said precinct on the date of such election because of _____ (voter to signify sickness, physical disability, or expected absence from county); that the enclosed ballot expresses my wishes, independent of any dictation or undue persuasion of any person; and that I did not use any memorandum or device to aid me in the marking of said ballot.

(Signature of voter)

By: _____
(Signature of witness who assisted voter
in event of physical disability)

The voter shall then and there, in the office of the clerk, mark the ballot in the presence of the clerk, sign his name on the back of the ballot stub, detach the stub from the ballot, fold the ballot and place it in the envelope marked "Ballot Envelope" and seal the same. The voter shall then place the stub and the ballot envelope in the carrier envelope, seal the same and sign and swear to the affidavit on the carrier envelope, and deliver the carrier envelope to the clerk, who shall certify to the affidavit. The clerk shall, when requested, also take any other affidavits for a voter which are required by this Code, for which service no fee shall be charged. The clerk shall make a notation on the voter's poll tax receipt or exemption certificate that he has voted absentee in the election, shall note the number of the receipt or certificate on the application, and shall return the receipt or certificate to the voter. Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

Subdivision 4. Voting by mail. The period for absentee voting by mail shall begin on the twentieth day preceding the date of the election. An application for an absentee ballot to be voted by mail must be received in the clerk's office not later than the close of business on the fourth day preceding election day. In county-wide elections and in elections less than county-wide where the authority holding the election has provided that absentee ballots shall be counted by a special canvassing board, the marked ballot must be mailed back to the clerk in an envelope postmarked not later than midnight of the day preceding election day, and must be received in the clerk's office before one o'clock p.m. on election day. In all other elections which are less than county-wide, the marked ballot must be mailed back to the clerk in an envelope postmarked not later than midnight of the

third day preceding election day and must be received in the clerk's office before ten o'clock a.m. on the second day preceding election day. The ballot may be marked by the voter at any time after he receives it and prior to the deadline for placing the marked ballot in the mail.

On the twentieth day preceding election day, or as soon thereafter as possible, the clerk shall mail an official ballot, ballot envelope, and carrier envelope, as described in Subdivision 3b of this section, to each voter who has theretofore made application for a ballot in compliance with this section. On applications which are received between the twentieth day and the fourth day preceding election day, the clerk shall forthwith mail the absentee voting supplies to the voter.

The voter shall mark the ballot before a notary public or other person authorized to administer oaths, sign his name on the back of the ballot stub, detach the stub from the ballot, fold the ballot, and place it in the envelope marked "Ballot Envelope" and seal the same. The voter shall then place the stub and the ballot envelope in the carrier envelope, seal the same and sign and swear to the affidavit on the carrier envelope, which shall be certified by the notary public or other officer before whom the ballot is marked. The carrier envelope shall then be mailed, postage prepaid, to the county clerk.

As soon as practicable after receipt of the carrier envelope containing the marked ballot, the clerk shall make a notation on the voter's poll tax receipt or exemption certificate that he has voted absentee in the election (or that the ballot was received after the deadline for returning ballots, in the case of late ballots), shall note the number of the receipt or certificate on the application, and shall mail the receipt or certificate to the voter at the address given in the application for returning the receipt or certificate to the voter, or if no such address is given, to the voter's permanent address. As amended Acts 1959, 56th Leg., p. 1055, ch. 483, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

Subdivision 5. Delivery of ballots to election judges; late ballots. Upon receipt of a ballot sealed in a carrier envelope, including those ballots which have been marked in the clerk's office and those which have been returned by mail, the clerk shall keep the same unopened and shall deliver it to the proper canvassing board or election judge as hereinafter provided. Prior to delivering the carrier envelope the clerk shall enclose the same together with the voter's application and accompanying papers, including the envelope in which any application by mail was received, in a larger jacket envelope.

Ballots not received back by the clerk before the deadline for returning ballots as stated in Subdivision 4 shall not be delivered to the judges and shall not be voted. The unopened carrier envelopes containing late ballots and the corresponding applications shall remain in the custody of the clerk for the period during which a contest of the election may be filed, and shall then be destroyed if no contest arose. As amended Acts 1959, 56th Leg., p. 1055, ch. 483, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

Subdivision 6. Counting of ballots in county-wide elections. In all county-wide elections, and in elections less than county-wide where the authority holding the election has provided that absentee paper ballots shall be counted by a special canvassing board, on the day of the election the ballot box and stub box used for absentee voting by personal appearance, the keys to the ballot box, the jacket envelopes containing the ballots voted by mail and accompanying papers, the poll list for absentee voting

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on which the clerk has entered the names of persons voting by personal appearance, and the list of qualified voters used by the county clerk, shall be delivered to a special canvassing board consisting of a presiding judge and two or more election clerks appointed in the same manner as provided for appointment of the election officers for regular polling places at that election. The county clerk shall deliver the ballots to the canvassing board at such hour as the presiding judge shall direct, but not earlier than the hour at which the polls are opened and not later than one o'clock p. m. If delivered before one o'clock p. m., the clerk shall deliver in like manner to the board, at one o'clock p. m., all ballots received by mail before one o'clock p. m. of the day of the election which have not previously been delivered to the board. This special canvassing board shall open the jacket envelopes, announce the voter's name and ascertain in each case if he is qualified to vote at that election and if he has complied with all applicable provisions of this section to entitle his ballot to be cast. The board shall compare the signatures on the application and upon the affidavit on the carrier envelope, and in case the board finds that the signatures correspond, that the application and the affidavit are duly executed, that the voter is a qualified elector, and that he has voted in a manner authorized in this section, they shall enter his name on the official poll list (on which voters voting by mail shall be listed separately from those who have voted by personal appearance) and shall open the carrier envelope so as not to deface the affidavit thereon, and shall place the sealed ballot envelope in the ballot box and the stub in the stub box. The carrier envelope, application and accompanying papers shall be replaced in the jacket envelope and returned to the county clerk at the same time the voted ballots are returned, and shall be preserved for the length of time provided by law for the preservation of the voted ballots.

If the ballot be challenged by an election officer, watcher, or other person, the grounds of challenge shall be heard and decided according to law, including the consideration of any affidavits submitted in support of or against such challenge. If the ballot be not admitted, there shall be endorsed on the face of the carrier envelope and the jacket envelope the word "rejected." The carrier envelopes containing rejected ballots shall be enclosed, securely sealed, in an envelope on which the words "rejected absentee ballots" have been written, together with a statement of the nature and date of the election, signed by the presiding judge, and shall be returned and preserved in the same manner as provided for return and preservation of official ballots voted at the election. The corresponding jacket envelopes containing the applications and accompanying papers shall also be returned to the clerk, and preserved for the length of time provided by law for preservation of the voted ballots.

At such time as the presiding judge shall direct, the election officers whose duty it is to count the ballots shall open the absentee ballot box, remove the ballots from the sealed ballot envelopes, and proceed to count and make out returns of all ballots cast absentee, including the ballots voted by personal appearance, in the same way as is done at a regular polling place. The ballot envelopes for the ballots voted by mail may be discarded or destroyed.

The special canvassing board, watchers, and all others connected with the conduct of absentee voting shall be subject to the provisions of Section 105 of this Code¹ with respect to revealing information as to the results of the election.

The special canvassing board shall possess the same qualifications, be subject to the same laws and penalties, and be paid the same wage as reg-

ular election judges; provided, however, that each member may be paid an amount not to exceed ten dollars if the time spent by the board in performing its duties is less than ten hours. Watchers may be appointed as for regular polling places. As amended Acts 1957, 55th Leg., p. 100, ch. 49, § 1; Acts 1959, 56th Leg., p. 1055, ch. 483, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

¹ Article 8.23.

Subdivision 7. Counting of ballots in elections less than county-wide. In all elections which are less than county-wide, the authority holding the election may provide, by proper resolution, that the absentee ballots shall be counted by a special canvassing board, in which event the procedure set out in Subdivision 6 of this section shall be followed. If the authority holding the election does not so provide, the clerk shall keep the carrier envelopes received by him until the second day prior to the election and shall then mail or deliver them as provided in Subdivision 8 of this section, and the ballots shall be counted as provided in Subdivision 9. As amended Acts 1959, 56th Leg., p. 1055, ch. 483, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

Subdivision 8. Delivery of ballots in elections less than county-wide. Upon the second day prior to the election, the clerk shall enclose each carrier envelope received by him before ten o'clock a. m. of that day, together with the voter's application and accompanying papers, in a larger jacket envelope, which shall be securely sealed and endorsed with the name and official title of such clerk, and the words "This envelope contains an absentee ballot and must be opened only at the polls on election day," and the clerk shall forthwith mail same, or deliver it in person, to the presiding judge of the election in the precinct of the voter's residence. As amended Acts 1959, 56th Leg., p. 1055, ch. 483, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 14.

Subdivision 14. Branch offices for absentee voting by personal appearance. In any town, other than the county seat, which has a population of four thousand or more inhabitants, according to the last federal census, upon authorization of the commissioners court the county clerk may appoint a deputy clerk in such town for conducting absentee voting by personal appearance, and any voter eligible to vote absentee by personal appearance in the main office of the clerk may vote in the branch office. The deputy clerk shall transmit to the clerk at the close of each day of absentee voting the names of all persons who have voted absentee in the branch office on that day, together with other necessary information as provided in Subdivision 11, for inclusion on the list of absentee voters posted in the clerk's office. During the period for absentee voting by personal appearance the applications and ballots of persons who have voted absentee may be retained in the branch office or may be delivered to the main office from time to time, but all applications and ballots shall be delivered to the main office not later than one o'clock p. m. on the third day prior to election day. Except as otherwise provided in this subdivision, the voting in the branch office shall be subject to the same regulations as the voting in the main office. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 15.

Subdivision 15. Assistance to voter; use of English language. If a voter is unable to sign his name because of illiteracy, any signature of the voter required by this section shall be made by the voter's affixing his mark, attested by two witnesses, but no voter shall be entitled to any assistance in the marking of his ballot on the ground of illiteracy.

No assistance shall be given a voter in marking his absentee ballot except where the voter is unable to prepare the same himself because of some bodily infirmity, such as renders him physically unable to write or to see. If the voter is entitled to assistance, he may be assisted by the clerk, notary public, or other officer before whom the ballot is marked, or by some other person, acting as the witness to assist the voter in event of physical disability, but the person assisting the voter shall not suggest, by word or sign or gesture, how the voter shall vote, and shall confine his assistance to answering the voter's questions, to stating the propositions to be voted on, and to naming the candidates and the political parties to which they belong, and he shall prepare the ballot as the voter himself shall direct. Where any assistance is rendered in marking an absentee ballot other than as allowed in this subdivision, the ballot shall not be counted but shall be void for all purposes.

In absentee voting by personal appearance at the clerk's office, any voter unable to speak or understand the English language may communicate with the clerk in some other language, and if the clerk is unable to speak or understand the language used by the voter or if he requests that the voter communicate through an interpreter, the voter shall be entitled to communicate through an interpreter of his choice, who shall be a qualified voter in the county. Before acting as interpreter, the person chosen by the voter shall take the following oath, to be administered by the clerk: "I solemnly swear that I will correctly interpret and translate each question, answer, or statement addressed to the voter by the clerk and each question, answer, or statement addressed to the clerk by the voter." When any language other than the English language is used either by the voter or by the clerk, any watcher present shall be entitled to request and receive a translation into the English language of anything spoken in some other language. Added Acts 1959, 56th Leg., p. 1055, ch. 483, § 2 as amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 16.

Subdivision 16. Period for absentee voting in second primary. Notwithstanding the provisions of Subdivisions 3 and 4 of this section, absentee voting in each second (runoff) primary election held under the provisions of Section 181 of this Code¹ shall begin on the tenth day preceding the date of the election. In all other respects the procedure for absentee voting in the second primary shall be the same as in other elections. Added Acts 1959, 56th Leg., p. 1055, ch. 483, § 2 as amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 17.

¹ Article 13.03.

Subdivision 18. Electioneering near absentee voting place. During the hours that the clerk's office is open while absentee voting is in progress, the clerk shall prevent electioneering within the room or designated place where the absentee voting is being conducted and in any corridor of the same building, within thirty feet of the entrance to such room or place. During the period for absentee voting, he shall keep posted at the entrance to such room or place a sign on which shall be printed in large letters the words, "Place for Absentee Voting," and he shall keep posted in each corridor at a distance of thirty feet from the entrance a distance marker on which shall be printed in large letters the words, "Distance marker for absentee voting. No electioneering between this point and the entrance to the place for absentee voting." Any person who electioneers within the room or place for absentee voting or in any corridor within thirty feet of the entrance, during the period for absentee voting and while the clerk's

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office is open, shall be fined not exceeding five hundred dollars. Added Acts 1963, 58th Leg., p. 1017, ch. 424, § 18.

Effective 90 days after May 24, 1963, date of adjournment.

Application of amendatory Act of 1959 to elections in progress on its effective date, see note under art. 5.06.

Absentee voting in counties in which voting machines adopted for use, see art. 7.14, § 7.

Art. 5.06. Absentee ballots

Special canvassing board, see art. 7.14, § 7a.

Art. 5.08. "Residence"

The "residence" of a single man is where he usually sleeps at night; that of a married man is where his wife resides, or if he be permanently separated from his wife, his residence is where he usually sleeps at night; provided, that the residence of one who is an inmate or officer of a public asylum or eleemosynary institute, or who is an officer or employee in one of the departments of the government of this state, or of the United States, or who is a student of a school, college, or university, shall be construed to be where his home was before he became such inmate, officer, employee or student, unless he has become a bona fide resident in the place where he is employed as such officer or employee or is such student or inmate. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 19.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 5.09. Liability to pay poll tax

There shall be levied and collected from every person between the ages of twenty-one and sixty years on the first day of January of each year and resident within this state on that date, an annual state poll tax of one dollar and fifty cents, one dollar of which shall be for the benefit of the free schools and fifty cents for general revenue purposes; provided, however, that the fifty-cent portion of the tax for general revenue purposes shall not be levied and collected from persons insane or blind, those who have lost a hand or foot, those permanently disabled, and disabled veterans of foreign wars where such disability is forty per cent or more, or from members of the active militia of this state who are exempt therefrom under the provisions of Articles 5840 and 5841 of the Revised Civil Statutes of Texas, 1925. On poll tax receipts issued to persons exempt from the fifty-cent portion of the tax, the tax collector shall make the notation, "Partial exemption, _____," stating the ground therefor, and such person shall not be issued or be required to obtain any other evidence of the exemption. The tax shall be paid at any time between the first day of October and the thirty-first day of January following, both dates inclusive, and shall be paid in the county in which the taxpayer resides at the time of payment; 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 1959, 56th Leg., p. 171, ch. 97, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 20.

Effective 90 days after May 24, 1963, date of adjournment.

voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the

Enactment of an article 5.09a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The

proposed constitutional amendment was rejected by the voters and therefore article 5.09a did not become effective or operative as a law.

False statements to procure poll tax receipt or exemption certificate, see Vernon's Ann.P.C. art. 200a.

Art. 5.10. Poll tax exemption

Every person who is a qualified voter otherwise and who is exempt from paying a poll tax 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 of the county in which he resided at the time of issuance of the certificate, when same is required by the provisions of this Code. If after issuance of the certificate the voter removes to some other county, he shall be entitled to vote, if otherwise qualified, upon compliance with Section 47 of this Code.¹

The date which determines a person's liability to, or exemption from, payment of the poll tax is the first day of January of the year for which the tax is levied. The tax payable during the period beginning on the first day of October in each year is the tax levied for that year, against persons who were residents of the state and were between twenty-one and sixty years of age on the first day of January of that year. If a resident became sixty years of age after that date, he is nevertheless liable for the tax and must pay it within the time prescribed in the preceding section in order to be qualified to vote at elections held during the year beginning on February 1 following the period for payment of the tax. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 23.

¹ Article 5.15.

Effective 90 days after May 24, 1963, date of adjournment.

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held on Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, § 4 did not become effective or operative as a law.

Enactment of an article 5.10a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held on Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.10a did not become effective or operative as a law.

False statements to procure poll tax receipt or exemption certificate, see Vernon's Ann.P.C. art. 200a.

Art. 5.11. Mode of paying poll tax

The poll tax must be paid by the taxpayer in person or by a remittance of the amount of the tax through the United States mail to the county tax collector, accompanying the remittance with a statement in writing, signed by the taxpayer, showing all the information necessary to enable the tax collector to fill out the blank form of the poll tax receipt. When payment is made by mail, the tax collector shall mail the receipt to the taxpayer at the taxpayer's permanent address, or, if requested to do so by the taxpayer in writing, the tax collector shall mail the receipt to the taxpayer at such other address as the taxpayer directs, or shall hold the receipt to be delivered to the taxpayer in person. The husband or wife, father, mother, son, or daughter of a taxpayer may pay the tax for the taxpayer in either of the modes herein authorized, and may sign for the taxpayer when payment is by mail, and may receive the poll tax receipt issued to the taxpayer. Except as herein permitted, it shall be unlawful for any person to pay the poll tax of another or to act as agent for another in the payment of the tax. It shall be unlawful for the tax collector

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to mail or deliver a poll tax receipt to any person other than the taxpayer or a person lawfully acting in his behalf in the payment of the tax.

The tax collector 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, and issuing exemption certificates. As amended Acts 1957, 55th Leg., p. 1326, ch. 448, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 24.

Effective 90 days after May 24, 1963, date of adjournment.

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held on Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, § 4, did not become effective and operative as a law.

Enactment of articles 5.11a and 5.11b by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amend-

ment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore articles 5.11a and 5.11b did not become effective or operative as laws.

False statements to procure poll tax receipt or exemption certificate, see Vernon's Ann.P.C. art. 200a.

Levy and collection of poll tax, see V.A. T.S. Tax-Gen. art. 2.01.

Poll tax liability, see note under art. 5.09.

Art. 5.12. Mode of obtaining exemption certificate

A person entitled to a certificate of exemption from payment of the poll tax may obtain the certificate by applying to the tax collector of the county of his residence in person or by mail. An application by mail must be signed by the applicant, and must contain all the information necessary to enable the tax collector to fill out the blanks in the certificate. On applications received by mail, the tax collector shall mail the certificate to the person to whom it is issued or hold it to be delivered to him in person, in like manner as provided for poll tax receipts in the preceding section. The husband or wife, father, mother, son, or daughter of a person entitled to an exemption certificate may apply for such certificate in either of the modes herein authorized, and may sign for the exempt person when applying by mail, and may receive the certificate. Except as herein permitted, it shall be unlawful for any person to act as agent for another in applying for or obtaining an exemption certificate. It shall be unlawful for the tax collector to mail or deliver an exemption certificate to any person other than the person to whom it is issued or a person lawfully acting in his behalf in applying for the certificate. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 25.

Effective 90 days after May 24, 1963, date of adjournment.

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective and operative as a law.

Enactment of articles 5.12a and 5.12b by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted an at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore articles 5.12a and 5.12b did not become effective or operative as laws.

False statements to procure poll tax receipt or exemption certificate, see Vernon's Ann.P.C. art. 200a.

Art. 5.13. Not to pay tax

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const.

art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed

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constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.13a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment

to Const. art. 5, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was defeated by the voters and therefore article 5.13a did not become effective or operative as a law.

Art. 5.14. Form of poll tax receipt; alien poll tax receipts; correction of errors on poll tax receipts and exemption certificates

Each poll tax receipt and its duplicate shall show the name of the person to whom it was issued, the payment of the tax, the age, sex, race, and occupation of the taxpayer, the length of time the taxpayer has resided in the state, whether the taxpayer is a citizen of the United States and, if so, whether a native-born or a naturalized citizen, and the state or country where the taxpayer was born, the length of time the taxpayer has resided in the county, and if a resident of an incorporated city or town, the length of time the taxpayer has resided therein, the voting precinct in which the taxpayer lives, the taxpayer's post-office address, or if living in an incorporated city or town, the taxpayer's street address by name and number, if numbered, and the ward number in such city or town; and a blank space for political party affiliation of the taxpayer, to be completed as provided in Section 179a of this Code.¹ The poll tax receipts shall be numbered consecutively in each book provided for in this Code.

The poll tax receipt shall be in substantially the following form or in other suitable form reflecting all the information required by this section:

Poll Tax Receipt No. _____
State of Texas
County of _____

Received of _____ on the _____ day of _____ 19____, the sum of \$_____ in payment of poll tax for the year 19____. The said taxpayer says that he (she) is _____ years old, that his (her) race is _____, that he (she) is a native-born (naturalized) citizen of the United States, and was born in _____ (name of state if native-born, and of country if foreign-born), that he (she) has resided in Texas _____ years and in _____ County _____ years, that he (she) is by occupation _____, that his (her) post-office address is _____, and (if residing in a city or town) his (her) street and number is _____, in Ward No. _____, that he (she) resides in Voting Precinct No. _____. Party affiliation: _____

All of which I certify:

(Signed) _____
Tax Collector, _____ County, Texas

(Seal)

If it appears from the information above required that the taxpayer is an alien, he shall be given a receipt from a book specially prepared for alien taxpayers, which book is provided for in Section 50 of this Code.² If, after issuance of an alien poll tax receipt upon timely payment of the tax, the taxpayer becomes a naturalized citizen of the United States before expiration of the voting year next following its issuance, upon presentation by the taxpayer of his certificate of naturalization or other satisfactory evidence of his naturalization to the tax collector, the tax collector shall issue to him a poll tax receipt in regular form, containing the same information which appears on the alien poll tax receipt issued to him, and

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the tax collector shall place on the substituted receipt the following notation: "Naturalized on _____ (date). Substitute for Alien Poll Tax Receipt No. _____, issued on _____ (date of issuing substitute)." The tax collector shall also make the following notation on the taxpayer's duplicate alien receipt on file in his office: "Naturalized on _____ (date). Regular Poll Tax Receipt No. _____ issued on _____ (date)." The tax collector shall place on the list of qualified voters or on the supplemental list, if the original list has already been prepared, the names of former alien taxpayers to whom substitute receipts have been issued. Notwithstanding any other provision of law, it shall be lawful for the tax collector to issue substitute receipts as herein authorized after January 31st, and the holder, if otherwise qualified, shall be entitled to vote thereon.

Where a taxpayer has paid the tax and supplied to the tax collector the necessary information for filling out the receipt before the first day of February, but the tax collector has failed to issue a receipt therefor prior to that date because of lack of time or for any other reason, the tax collector shall thereafter issue a receipt as of the date on which payment was received. Except as herein provided, all tax receipts issued for any year after January 31st shall be stamped on the face thereof: "Holder not entitled to vote," and the names of the holders of such poll tax receipts shall not be included in the list of qualified voters.

When after issuance of a poll tax receipt or an exemption certificate, it is discovered that an error has been made in filling out the blanks on the receipt or certificate through mistake of the tax collector or through innocent mistake of the holder in supplying the information, the holder may present the receipt or certificate to the tax collector for correction and the tax collector shall correct the information on the original receipt or certificate and on the duplicate on file in his office. If the error has been in the voting precinct of the holder's residence and the regular list of qualified voters has already been prepared, upon correction of the error the tax collector shall place the holder's name on the supplemental list of qualified voters for the precinct in which he resides. No person shall be entitled to vote in a voting precinct of which he is not a resident. If an error in the voting precinct has not been corrected on the receipt or certificate at the time the holder offers to vote at an election, he may vote in the precinct of his residence, if otherwise qualified, by making and leaving with the presiding judge of the election an affidavit that he is a bona fide resident of that precinct and qualified to vote at that election, and that the error on the receipt or certificate was not caused by an intentional misrepresentation on his part; provided, however, that if the election judge is not satisfied as to his right to vote, his vote shall not be accepted unless he also complies with the provisions of Section 91 of this Code.³

The tax collector shall not re-issue a poll tax receipt or an exemption certificate to replace a receipt or certificate that has been lost or misplaced, or for any other reason, and a voter whose receipt or certificate has been lost or misplaced, when offering to vote, shall be required to make an affidavit of such fact as provided elsewhere in this Code. As amended Acts 1959, 56th Leg., p. 1049, ch. 480, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 26.

¹ Article 13.01a.

² Article 5.18.

³ Article 8.09.

For Annotations and Historical Notes, see V. T. A. S.

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Effective 90 days after May 24, 1963, date of adjournment.

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.14a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.14a did not become effective or operative as a law.

False statements to procure poll tax receipt or exemption certificate, see Vernon's Ann.P.C. art. 200a.

Art. 5.15. Removal to another county or election precinct

If a citizen, after receiving his poll tax receipt or certificate of exemption, removes to another county or to another election precinct in the same county, he may vote in the precinct of his new residence by presenting to the judge of election his poll tax receipt or certificate of exemption or his affidavit of its loss, stating in such affidavit where he paid the tax or received the certificate, and by making oath that he is the identical person described in such poll tax receipt or certificate of exemption, and that he then resides in the precinct where he offers to vote and has resided for the last six months in the district or county in which he offers to vote and twelve months in the state. But no such person shall be permitted to vote in a city of ten thousand inhabitants or more unless he complies with the following procedure: not less than four days prior to any election at which he wishes to vote, he shall present his poll tax receipt or certificate of exemption to the tax collector of the county of his residence, or shall make affidavit of its loss, stating in such affidavit where he paid the tax or received the certificate, and shall on oath state in which election precinct he then resides and that he has resided in the state for the last twelve months and in the district or county for the last six months. The tax collector shall thereupon add his name to the list of qualified voters of the precinct of his new residence, and unless such voter has complied with this procedure and his name appears on the certified list of voters of the precinct of his new residence, he shall not vote. If the voter has resided in a district for six months but less than six months in the county, the tax collector shall note on the list of qualified voters the date on which the voter moved into the county. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 27.

Effective 90 days after May 24, 1963, date of adjournment.

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held on Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.15a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon the adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.15a did not become effective or operative as a law.

Poll tax exemption, see art. 5.10.

Art. 5.16. Exemption certificates based on overage

As a condition to voting, any person who is exempt from the payment of a poll tax by reason of the fact that he was over sixty years of age on the first day of January preceding its levy, and who resides in a city of ten thousand or more inhabitants, must annually obtain from the tax collector of the county of his residence, between the first day of October and the 31st

day of January, a certificate showing his exemption from the payment of the tax. If he is otherwise qualified to vote, such certificate shall entitle him to vote at elections held within one year after the 31st day of January following its issuance, and no such exempt person shall be permitted to vote unless he has obtained a certificate entitling him to vote during such year. If a person who is exempt on the ground of overage does not reside in a city of ten thousand or more inhabitants during the regular period for issuance of exemption certificates, but thereafter moves to such a city, he must obtain an exemption certificate not less than four days before any election at which he wishes to vote. Where a certificate is issued to a person who will not have fulfilled the residence requirements for voting in the county of issuance by the date on which the certificate would otherwise entitle him to vote, the tax collector shall place on the face of the certificate the notation, "Holder not entitled to vote before _____," inserting the date on which the applicant will have fulfilled the residence requirements, and shall also place the notation alongside the certificate holder's name on the list of qualified voters.

Such exempt person shall furnish to the tax collector the information necessary to fill out the blank form of the exemption certificate. The exemption certificate shall show the name of the person to whom it is issued, his age, sex, race, and occupation, whether a native-born or a naturalized citizen of the United States, the state or country where he was born, the length of time he has resided in this state, the length of time he has resided in the county, and if a resident of an incorporated city or town, the length of time he has resided in such city, the voting precinct in which he lives, his post-office address, and if living in an incorporated city or town, his street address by name and number, if numbered, and the ward number in such city or town, and the ground upon which he claims exemption from the payment of a poll tax; and a blank space for political party affiliation, to be completed as provided in Section 179a of this Code.¹

No charge shall be made by the tax collector for the issuance of certificates of exemption. Certificates for each county shall be numbered consecutively, beginning at Number One.

Exemption certificates shall be in substantially the following form or in other suitable form reflecting all the information required by this Code:

**CERTIFICATE OF EXEMPTION FROM THE
PAYMENT OF POLL TAX**

Exemption Certificate No. _____
State of Texas
County of _____

I hereby certify that _____ has declared that he (she) is _____ years old, that his (her) race is _____, that he (she) is a native-born (naturalized) citizen of the United States, and was born in _____ (name of state if native-born, and of country if foreign-born), that he (she) has resided in Texas _____ years and in _____ County _____ years, that he (she) is by occupation _____, that his (her) post-office address is _____ and (if residing in a city or town) his (her) street and number is _____, in Ward No. _____, that he (she) has resided in said city or town _____ years, that he (she) resides in Voting Precinct No. _____, that he (she) is exempt from the payment of a poll tax by reason of _____; that he (she) was born on the _____ day of _____, 19____ (to be

filled in if ground is nonage); and that he (she) became a resident of this state on the _____ day of _____, 19____ (to be filled in if ground is nonresidence).

Party Affiliation: _____

Given under my hand and seal of office this the _____ day of _____, 19____.

(Signed) _____
Tax Collector, _____ County,
Texas.

As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 28.

¹ Article 13.01a.

Effective 90 days after May 24, 1963, date of adjournment.

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.16a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned on adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.16a did not become effective or operative as a law.

Art. 5.17. Certificates of exemption based on nonage and nonresidence

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.17a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.17a did not become effective or operative as a law.

Art. 5.18. Poll Tax Books

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.18a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.18a did not become effective or operative as a law.

Art. 5.19. Poll tax deputy

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.19a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.19a did not become effective or operative as a law.

Art. 5.20. Collector may administer oaths

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.20a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon the adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.20a did not become effective or operative as a law.

Art. 5.21. Proof of residence

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.21a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.21a did not become effective or operative as a law.

Art. 5.22. List of qualified voters

Before the first day of April of each year, the county tax collector shall prepare separate certified lists of citizens in each election precinct of the county who have paid their poll tax or received their certificates of exemption, the names being arranged in alphabetical order and to each name its appropriate number as shown by the duplicate retained in his office, with a description of the voter as to his residence, length of his residence in the state, county and city, his age, sex, race, occupation, and post-office address. The tax collector shall deliver to each board, executive committee, or other authority having the duty of furnishing supplies for any general, special, or primary election to be held within the county during the voting year for which the lists are prepared, one set of such lists for all precincts in the county if any election held by such authority is county-wide, and one set of such lists for all precincts wholly or partially within the boundaries of the political subdivision in which the election is to be held if less than county-wide. The tax collector shall also furnish to each such authority, not less than four days prior to each election held by it, supplemental certified lists in the form herein prescribed of all voters who have removed to each precinct from another county or election precinct and have complied with the provisions for having their name placed on the list of qualified voters for such precinct, or who have received their exemption certificates since preparation of the original lists, and all other voters whose names should be placed on such supplemental lists for any other reason provided for in this Code. The authority shall furnish to the presiding judge in each precinct the original and supplemental lists of voters in his precinct at the time it furnishes other election supplies.

The tax collector shall furnish without charge to each clerk having the duty of conducting absentee voting in any election the appropriate lists for use in the conduct of absentee voting for the election.

At the time the tax collector makes up his list of voters as herein provided, he shall at the same time and in the same manner make up a separate list of alien poll tax payers and shall mark at the top of said list the words "Alien Poll Tax Payers," and such list shall be delivered at the

same time and in the same manner and to the same officials as hereinabove provided for the lists of qualified voters in the county.

No charge shall be made for lists furnished for use in elections held at the expense of the county or any city or other political subdivision. For each set of original and supplemental lists which the tax collector is required to furnish to the executive committee of a political party for use in its primary elections, the tax collector shall be permitted to charge not more than five dollars, to be paid by the party or the chairman so ordering the lists, which charge shall be in full for both the original lists and the supplemental lists. The tax collector shall also furnish to the county executive committee of each political party, for any year in which such party is holding precinct conventions, one set of the original and supplemental lists for use in qualifying persons to participate in such conventions, for which the tax collector shall be permitted to charge not more than five dollars. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 29.

Effective 90 days after May 24, 1963, date of adjournment.

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.22a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.22a did not become effective or operative as a law.

Qualified voter, definition, see art. 1.01a.

Art. 5.23. Duplicates kept

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon the adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.23a by Acts 1963, 58th Leg., p. 1103, § 2 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.23a did not become effective or operative as a law.

Art. 5.24. Statement of receipts

Repeal of this article by Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1103, ch. 430, § 4 did not become effective or operative as a law.

Enactment of an article 5.24a by Acts 1963, 58th Leg., p. 1103, ch. 430, § 3 was conditioned upon adoption of amendment to Const. art. 6, §§ 2, 4, proposed by S.J.R. No. 1, Acts 1963, 58th Leg., p. 1797, voted on at election held Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore article 5.24a did not become effective or operative as a law.

CHAPTER SIX—OFFICIAL BALLOT

Art.	Art.
6.01a Use of nicknames and titles [New].	6.05c Order of names of candidates [New].
6.05a Ballots for elections involving precinct offices [New].	6.05d Election for unexpired term [New].
6.05b Order of party columns on the ballot [New].	6.05e Correction of errors on ballot; use of pasters [New].

Art. 6.01a. Use of nicknames and titles

Subject to the prohibitions of this section, the name of each candidate on any general, special, or primary election ballot shall be printed on the ballot in the form designated by the candidate. In lieu of his full legal name, the candidate may use in combination with his surname any of his given names or initials or contraction of such names by which he is commonly known, and as a part of his name he may use a bona fide nickname of one unhyphenated word of not more than ten letters, by which he is commonly known and has been so known for at least two years preceding the election. No nickname shall be placed on the ballot unless it meets the foregoing requirements, and in no event shall there be placed on the ballot any nickname indicating any political, economic, social, or religious view or affiliation. The suffix "Sr.," "Jr.," "2nd," or a word or abbreviation of similar import may be used as part of the candidate's name.

A married woman or widow may use in combination with her surname the given name or initials of her husband or deceased husband with the prefix "Mrs." In the event two or more candidates for the same office have the same or similar surnames, each such candidate may have printed after his name a descriptive statement, not to exceed four words, which will distinguish him from the other. The descriptive words must refer to his place of residence or to his present or former profession, occupation or position (which may be by title or other method); and no other kind of descriptive matter shall be used. Except as herein permitted, no title or other designation of status, office, position, or attainment shall be affixed to any candidate's name. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 57a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 31.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6.02. Loyalty affidavits

(a) No person shall be permitted to have his name appear upon the official ballot as a candidate or nominee for any public office, as hereinafter stated, at any general, special, or primary election in this state, unless and until he shall have filed a loyalty affidavit as required by this section. The provisions of this section shall apply to candidates for all elective state, district, county, and precinct offices, including the offices of United States Senator and United States Representative, and to all elective offices of cities, school districts, conservation districts, and other political subdivisions of the state, except candidates for President or Vice-President of the United States and presidential elector candidates.

(b) A candidate whose name is to appear on the ballot in any general primary (first primary) election shall file the affidavit with the chairman of the executive committee with whom the request to have his name placed on the ballot is filed, or if filed with more than one, with each chairman. The affidavit must be filed before the deadline for filing applications for that election. Before the name of a write-in candidate in a first primary

election is ordered placed on the ballot for a second or runoff primary election or is certified to be placed on the ballot for a general or special election as the party nominee, he shall file the affidavit with the chairman of the state executive committee in the case of a district or state-wide office and with the chairman of the county executive committee in the case of a county or precinct office. A candidate nominated by a party convention or a party executive committee shall file the affidavit with the committee chairman who certifies his nomination, and the affidavit must be filed before his name is certified. An independent or nonpartisan candidate shall file the affidavit with the officer with whom his petition or application for a place on the ballot is filed, and the affidavit must be filed before the deadline for filing applications for a place on the ballot at that election.

(c) The affidavit shall be in the following form:

I _____, of the County of _____, State of Texas, being a candidate for the office of _____ do solemnly swear that I believe in and approve of our present representative form of government, and, if elected, I 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, and I will support and defend the Constitution and laws of the United States and of the State of Texas.

(Signature of candidate)

Sworn to and subscribed before me at _____, this _____ day of _____, A.D. _____.

(Signature of officer administering oath)

(Title of officer administering oath)

(d) 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 the official ballot. 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 the official ballot at any election in this state.

(e) The certification of a candidate as the nominee of a political party shall be sufficient evidence of the filing of the affidavit with the proper party chairman to permit the officer to whom the certification is made to place the candidate's name on the general or special election ballot, and it shall not be necessary for the candidate to file an affidavit with any other officer in connection with his candidacy, nor shall it be necessary for the certificate to state that the affidavit has been filed.

(f) If any officer with whom the loyalty affidavit as prescribed herein is required to be filed, fails or refuses to require the affidavit before ordering or certifying the candidate's name for a place on the ballot, he shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than fifty dollars nor more than two hundred dollars. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 32.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6.04. Death or declination; placing name of substitute nominee on ballot

If a nominee dies or declines his nomination, and the vacancy so created shall have been filled, and such facts shall have been duly certified in accordance with the provisions of this Code, the officer to whom certification of the substitute nomination is made shall promptly notify the official board created by this law to furnish election supplies that such vacancy has occurred and the name of the new nominee shall then be printed upon the official ballot, if the ballots are not already printed. If such declination or death occurs after the ballots are printed, or due notice of the name of the new nominee is received after such printing, the official board charged with the duty of furnishing election supplies shall prepare as many pasters bearing the name of the new nominee as there are official ballots, which shall be pasted over the name of the former nominee on the official ballot before the presiding judge of the precinct indorses his name on the ballot for identification, or before opening of the polls where the voting is by use of a voting machine. In place of the pasters the official board may have the ballots reprinted, blotting out the name and printing above it the name of the new nominee, thus:

A. T. Jones

~~John Doe.~~

As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 33.

Effective 90 days after May 24, 1963, date of adjournment. Correction of errors on ballot, see art. 6.05e.

Art. 6.05a. Ballots for elections involving precinct offices

For any election, general or primary, at which the office of county commissioner, justice of the peace, constable, or precinct chairman of a political party is to be voted on, different ballots shall be prepared for the various precincts involved in the election, to differ with respect to the precinct offices to be voted on. The election officers for each election precinct shall be furnished official ballots listing the precinct offices and candidates which are to be voted on by the voters in the particular election precinct, and no other precinct offices shall be listed thereon, so that no voter shall receive a ballot listing any precinct office on which he is not entitled to vote. In furnishing ballots to absentee voters, the county clerk shall furnish the voter with the ballot prepared for use in the election precinct in which he resides. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 61a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 34.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6.05b. Order of party columns on the ballot

In any election held at the expense of the county, in which party columns appear on the official ballot, the columns shall be arranged in the following order, beginning on the left-hand side of the ballot: (1) columns of parties with state organization which have nominated candidates to be voted on at the election, arranged in the order of the number of votes cast for each party's candidate for Governor at the preceding general election, with the party whose candidate for Governor received the highest vote being placed in the first column; (2) columns of parties without state organization which have nominated candidates to be voted on at the election; (3) a column for independent candidates; (4) a column for write-in candidates. If there is no independent or non-

partisan candidate whose name is to be printed on the ballot, the column for independent candidates shall be omitted.

Where voting machines are used in the election and the columns on the ballot are arranged horizontally, the columns shall appear on the ballot in the order herein provided, beginning at the top of the ballot instead of on the left-hand side. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 61b added Acts 1963, 58th Leg., p. 1017, ch. 424, § 35.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6.05c. Order of names of candidates

In any general or special election in which the names of more than one candidate for the same office are to be printed on the ballot in an independent or nonpartisan column or are to be printed on the ballot without party designation, the order in which the names of such candidates are to be printed on the ballot shall be determined by a drawing, to be conducted by the county clerk in elections held at the expense of the county, by the city secretary in city elections, and by the officer with whom the applications for a place on the ballot were filed in elections held by other political subdivisions. The officer conducting the drawing shall post a notice in his office, at least three days prior to the date on which the drawing is to be held, of the time and place of the drawing, and shall also give personal notice to any candidate who makes written request for such notice and furnishes to the officer a self-addressed, stamped envelope; and each candidate involved in the drawing or a representative designated by him shall have a right to be present and observe the drawing. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 61c added Acts 1963, 58th Leg., p. 1017, ch. 424, § 36.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6.05d. Election for unexpired term

Whenever, in any general election or in any primary election for making nominations for a general election, an election is to be held for an unexpired term in an office, the words "unexpired term" shall be printed after the office title on the official ballot. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 61d added Acts 1963, 58th Leg., p. 1017, ch. 424, § 37.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6.05e. Correction of errors on ballot; use of pasters

If an error is made in printing the name of a candidate on the ballot, it may be corrected by use of a printed sticker or paster, which shall be printed on the same kind of paper and in the same style of type as used on the ballot. Any other error may be corrected in like manner if it can be done without disturbing the regularity of the ballot form. No sticker or paster shall be used on a ballot except as authorized in this section or in Section 60 of this Code, and if otherwise used the names pasted shall not be counted. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 6.05e, added Acts 1963, 58th Leg., p. 1017, ch. 424, § 38.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6.06. How to mark ballot

In all elections, general, special, or primary, the voter shall mark out the names of all candidates he does not wish to vote for. When party columns appear on a ballot, a voter desiring to vote a straight ticket may do so by running a line with a pencil or pen through all other tickets on the official ballot, making a distinct marked line through all tickets not intended to be voted; and when he desires to vote a mixed ticket, he shall do so by running a line through the names of such candidates as he desires to vote against. If the name of the person for whom the voter wishes to vote is not printed on the ballot, the voter shall mark through the names which appear on the ballot in that race and shall write in the name of the candidate for whom he wishes to vote, in the write-in column under the appropriate office title in elections where party columns appear on the ballot, and in an appropriate space under the title of the office in other elections; provided, however, that a voter shall not be entitled to vote for any candidate whose name is not printed on the ballot in any runoff election for nominating candidates or electing officers, and a space for write-in votes shall not be provided on the ballot for such elections. A voter also shall not be entitled to vote for a candidate whose name is not printed on the ballot in any other type of election where the law expressly prohibits votes for write-in candidates.

Where propositions are to be voted on, the voter shall mark out the statement for the proposition or the statement against the proposition, so that the one remaining shall indicate the way he wishes to vote.

The failure of a voter to mark his ballot in strict conformity with these directions or failure to vote a full ballot shall not invalidate the ballot, and a ballot shall be counted on all races and propositions wherein the intention of the voter is clearly ascertainable, except where the law expressly prohibits the counting of the ballot. As amended Acts 1957, 55th Leg., p. 802, ch. 338, § 2; Acts 1963, 58th Leg., p. 1017, ch. 424, § 39.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER SEVEN—ARRANGEMENT AND EXPENSES OF ELECTION**Art. 7.01. Voting booths**

False statements to procure poll tax receipt or exemption certificate, see Vernon's Ann.P.C. art. 200a.

Art. 7.06. Ballot boxes

All ballot boxes shall be securely made of metal or wood, provided with a top, hinges, lock and key, and an opening shall be made at the top of each just large enough to receive a ballot when polled. Whenever the ballots shall have been counted at any election, general, special or primary, the counted ballots shall be locked in one of the ballot boxes of suitable size and delivered to the proper official and the key or keys to the said lock shall be delivered to the proper official to be kept for at least thirty days unless sooner needed for recount or contest as provided by law. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 40.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 7.10. Collector's fee for poll taxes

The tax collector shall be paid fifteen cents for each poll tax receipt or certificate of exemption issued by him, to be paid pro-rata by the state and county in proportion to the amount of the poll tax received by the state and the amount of the fee received by the county for collecting the poll tax, and the amount paid to the tax collector shall include compensation for all duties performed by him under the provisions of this Code. Provided, however, that where county tax collectors are compensated on a salary basis the money paid by the state and county for receipts and certificates issued by him shall be deposited in the officers salary fund of the county. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 22.

Effective 90 days after May 24, 1963, date of adjournment. Levy and collection of poll tax, see V. A.T.S. Tax-Gen. art. 2.01.

Art. 7.14. Providing for voting machines

Sec. 2. Setting out requirements of voting machines. A voting machine approved by the Secretary of State must be so constructed as to provide facilities for voting for such candidates as may be legally placed on an official ballot at any election in this state. It must also permit a voter in a general election to vote for any person for any office, whether or not nominated as a candidate¹ by any party but whose name is legally on the ballot as an independent candidate, and must permit voting in absolute secrecy. It also must be so constructed that a voter cannot vote for a candidate or on a proposition for whom or on which he is not lawfully entitled to vote. It also must be so constructed as to prevent voting for more than one person for the same office and at the same time preventing his voting for the same person twice. It must be provided with a lock or locks, by the use of which immediately after the polls are closed or the operation of such machine for such election or primary election is completed, any movement of the voting or registering mechanism is absolutely prevented. The machine shall be equipped with one or more protective counters. The machine may be equipped with a device which prints a copy or copies of the numbers registered on the counters, as registered before the polls open and after the polls close. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 41.

¹ So in enrolled bill.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 3. Adoption by commissioners court. The commissioners court of any county in the state may adopt for use in elections in at least three of the larger election precincts in voting strength in the county, any kind of voting machine approved by the Secretary of State, and may adopt such voting machine at any time for use in such additional election precincts in the county as it may deem advisable. The court at any time may rescind or modify its previous order or orders adopting voting machines, and may discontinue use of voting machines altogether, but use of voting machines shall be retained in at least three of the larger election precincts if retained for use in any part of the county.

Voting machines shall be used at the biennial general elections for state and county officers in all precincts in which they have been adopted by the commissioners court. In all other elections, general, special, or primary, the authority holding the election shall determine within its discretion whether the voting in such precincts for the particular election shall be by use of voting machines or paper ballots, and may provide for use of either voting machines or paper ballots in any or all of

the precincts for which voting machines have been adopted. The determination shall be made by the commissioners court in elections held at the expense of the county, by the governing body of the municipality or political subdivision in elections held by municipalities or other political subdivisions, and by the county executive committee of the political party in primary elections. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 41.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 5. Providing voting machines. The commissioners court of a county which had adopted voting machines for that county or any portion thereof, shall as soon as practicable, and in no case later than six months after adoption thereof, provide for each election precinct designated one or more approved voting machines in completed working order, and shall thereafter preserve and keep them in repair. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 42.

Effective 90 days after date of adjournment.

Sec. 7. Absentee voting. In any election in which voting machines are to be used in all or part of the election precincts, the authority charged with holding the election shall within its discretion determine by proper resolution or order whether or not voting machines shall be used for absentee voting by personal appearance at such election. If it be determined by such authority that voting machines shall be used for absentee voting by personal appearance, a voting machine or machines shall be placed in the office of the clerk who is to conduct the absentee voting for the election, as provided in Section 37 of this Code,¹ with the ballot of the election thereon as regulated by law, and those entitled under the law to vote absentee by personal appearance at the clerk's office shall cast their votes on such machine or machines as the case may be, under the laws applicable to absentee voting, and the clerk shall enter on a poll list the name of each such voter at the time he votes. The clerk shall seal the machine or machines at the close of each day's voting in the presence of authorized watchers, if any, and such seal shall be broken by the clerk in the presence of such authorized watchers, if any, the following morning when voting begins. When absentee voting by personal appearance is legally concluded at the election, the clerk shall lock and seal such machine or machines in the manner prescribed for election precincts, to be kept intact until the day of the election. Before seven o'clock p. m. on the day of the election, the machine or machines shall be opened and the vote canvassed, in the manner provided for regular polling places, by the clerk who conducted the absentee voting and two other officers as follows: if an election held by the county, by the county judge and the sheriff; if a city election, by the mayor and one other member of the city governing body, to be designated by the governing body; if an election held by some other political subdivision, by the presiding officer and one other member of the governing body of the subdivision, to be designated by the governing body; and if a primary election, by the chairman and secretary of the executive committee of the political party holding the election; provided, however, that where the absentee ballots voted by mail are counted by a special canvassing board as hereinafter authorized, the special canvassing board shall canvass the absentee votes cast on voting machines. After the canvass has been made, the machine or machines shall be locked and sealed and shall remain locked against voting for the same period as

required for other machines used in the election. The results of such canvass shall be returned by sealing and delivering, same to the proper authority as provided by law and such results shall be tabulated and canvassed in the same manner and together with the tabulation and canvassing of the returns for other election precincts. The results of such absentee votes shall not be announced or made public until after seven o'clock p. m. of the day of the election, when such results shall be announced and made public together with the general results of the election by proclamation of same as provided by law.

In all elections, absentee voting by mail shall be conducted by use of paper ballots, and the authority holding the election shall provide official paper ballots for the casting of absentee ballots by mail as prescribed and provided by the general laws applicable to absentee voting. Should the authority determine by such resolution as above provided that paper ballots are to be used for absentee voting by personal appearance, a sufficient supply of paper ballots shall be provided for absentee voting by personal appearance as well as by mail. The absentee voting by use of paper ballots shall be conducted as prescribed by the general laws applicable to absentee voting, except as otherwise provided herein. If the authority holding the election determines that absentee paper ballots shall be counted by a special canvassing board as hereinafter authorized, the ballots shall be counted and returns made in the manner prescribed. If the ballots are not to be counted by a special canvassing board, they shall be sent to the precinct polling places for counting. On the second day prior to the election, the clerk shall mail or deliver to the presiding judge in the precinct of the voter's residence each absentee ballot which has been lawfully returned to him, in the manner provided in Subdivision 8 of Section 37 of this Code.² In county-wide elections, the authority holding the election shall be responsible for delivering to the precinct polling places the absentee ballots voted by mail which are received by the clerk between the second day prior to the election and one o'clock p. m. on election day. On election day, the precinct election officers shall test and qualify the absentee ballots in the manner provided in Subdivision 6 of Section 37 of this Code,³ and the name of each elector whose absentee ballot is accepted shall be entered on the regular poll list with the words "absentee voter" set down opposite the voter's name.

In election precincts where paper ballots are used, the ballot stubs for the accepted ballots shall be placed in the regular stub box prepared for the precinct, and the ballot envelopes shall be placed in a box for absentee ballots. Between the hours of 2:00 p. m. and 3:00 p. m. on the day of the election, the ballot envelopes shall be opened and the ballots shall be counted and tallied in the same manner as other ballots cast at the election and shall then be placed in ballot box No. 3 for counted ballots.

In election precincts where voting machines are used, the stubs shall be placed in a stub box prepared for absentee ballots for that precinct, and the ballot envelopes shall be placed in a box for absentee ballots. Between the hours of 2:00 p. m. and 3:00 p. m. on the day of the election, the ballot envelopes shall be opened and, under the supervision of the presiding officer and in the presence of two clerks and of the watchers, if any, the ballots shall be registered on the voting machine the same as if the absent voter had been present and voted in person, and the voted paper ballots shall then be placed in a ballot box which

shall be locked and returned to the officer having custody of the voted ballots for that election.

All rejected absentee ballots and the applications and accompanying papers on all absentee ballots shall be handled and returned in the manner provided by general law for absentee voting. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 43.

¹ Article 5.05.

² Article 5.05, subd. 8.

³ Article 5.05, subd. 6.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 7a. Special canvassing board. In all elections in which voting machines are used for voting at regular polling places, both county-wide and less than county-wide, the authority charged with holding the election may in its discretion determine by proper resolution to have absentee paper ballots counted by a special canvassing board as provided in Subdivision 6 of Section 37 of this Code.¹ The special canvassing board shall count the absentee paper ballots and make return thereof in the same way as prescribed for county-wide elections in Sections 37 and 38 of this Code, and all laws applicable to absentee voting in county-wide elections, including the period for absentee voting by mail, shall apply. The board shall be appointed and compensated as provided in Subdivision 6 of Section 37. If absentee voting by personal appearance has been conducted by use of voting machines, the special canvassing board shall also canvass and record the votes cast on the voting machine or machines and make return thereof. Added Acts 1957, 55th Leg., p. 798, ch. 333, § 1 as amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 44.

¹ Article 5.05, subd. 6.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 8. Form of ballots on voting machines. All ballots shall be printed in black ink on white clear material, of such size as will fit in the ballot frame, and in as plain, clear type as the space will reasonably permit. In all elections, general, special, or primary, a designating letter and number may be affixed to the name of each candidate. In general elections, the party name may be affixed to the name of each candidate, and the names of all candidates of one political party shall be so arranged that a voter may be able to cast his ballot for such candidates as he may desire or to cast one ballot for all the candidates of that political party. In primary elections, however, the ballot shall be so arranged and the lever so locked as to prevent the voting of straight tickets. Should there be so many candidates and/or propositions to be voted upon in any election as to exceed the capacity of one machine, more than one machine shall be provided for each polling place, but in all cases where more than one machine is necessary to list the entire ballot, the names of all candidates for any particular office shall be placed on one machine. In lieu of using an additional machine for listing the ballot, uncontested races may be placed in a separate column headed "Uncontested Races," with the name of each candidate appearing under the title of the office for which he is a candidate, and if the election is one at which party columns appear on the ballot, the party affiliation of the candidate shall be indicated by printing the name of the party which nominated him (or the word "Independent" if he is an independent candidate) after the candidate's name; and all such uncontested races shall be voted on as a block, and the requirement of this section that the ballot in general elections be so arranged that the voter may be able to vote a straight ticket for all candidates of one poli-

tical party shall not apply to candidates appearing in the uncontested column.

If the authorities charged with holding the election determine, in their discretion, that more than one voting machine is necessary to accommodate the number of voters voting in an election precinct, then as many voting machines shall be used for each precinct as such authorities deem necessary, and the same form of ballot containing the names of all candidates and/or propositions arranged in the same manner shall be provided for each machine. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 45.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 8a. Color of Ink for Ballots on Voting Machines in Large Counties. In counties having a population in excess of one million (1,000,000) inhabitants according to the last preceding Federal Census, the ballots may be printed in one or more colors of ink; however, the names of all the candidates for any one office shall be printed in the same color. Added Acts 1963, 58th Leg., p. 1371, ch. 523, § 8a.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 10. Preparation of voting machines. It shall be the duty of the appropriate officer of the authority holding the election (the county clerk in elections held at the expense of the county, the city secretary in city elections, the presiding officer of the governing body of the political subdivision in elections held by other political subdivisions, and the chairman of the county executive committee in primary elections) to cause the proper ballot labels to be placed on voting machines, to cause the machines to be placed in proper order for voting, and to examine all voting machines in the presence of authorized watchers for any interested persons, before they are sent out to the polling places, to see that all the registering counters are set at zero (000), to lock, in the presence of authorized watchers, all voting machines so that the counting machinery cannot be operated and to seal each one with a numbered seal. A list of the numbered seals and the number on the protective counters, together with the number of the precinct to which each machine was sent, shall be kept as a record open to any citizen, in the records of the officer making the examination, for the length of time required by law for preservation of the returns of the election. Such inspection and sealing of voting machines shall begin within five days before the day of the election at which such machines are to be used, and shall continue until all such machines are sealed. When all machines are locked and sealed, the key to each machine shall be placed in an envelope and sealed, the signature of the inspecting officer and the signatures of two watchers of opposed interest, if there be such, placed across the seal, and on the envelope shall be written the number then on the protective counter and the number of the seal of the voting machine, such envelope to be delivered to the presiding judge of each precinct.

It shall be the duty of the sheriff in an election held at the expense of the county, the duty of the mayor in a city election, the duty of the presiding officer of the governing body of the political subdivision in an election held by any other political subdivision, and the duty of the county chairman in a primary election, to have a voting machine or machines delivered to each of the polling places where voting machines are to be used, at least one hour before the time set for the opening of the polls in such voting precinct. After the machine has been delivered, the same authority

shall cause the machine to be set up in the proper manner and shall cause protection to be given so that the machine shall be free from molestation and injury. The same authority shall cause to be delivered with each machine an auxiliary light where necessary, properly prepared to be lighted in emergency, so arranged that the light will illuminate the face of the machine sufficiently that a voter may be able to read all the names on the machine, and suitable for officers in examining counters. The protective hood and screen of the machine shall be examined to see that they properly conceal all the actions of the voter while the voter is operating the machine. All poll lists and necessary supplies shall be delivered to the presiding judge at the same time the key or keys to the machine are delivered. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 46.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 12. Preliminaries of opening the polls. The key or keys to the voting machine or machines shall be delivered to the presiding judge of each precinct at least thirty minutes before time for the opening of the polls, the seal of the envelope containing the same to be unbroken, and the seal shall be broken by the presiding judge only in the presence of at least two authorized watchers for opposing interest (if there be such), and shall only be broken after comparison shows that the number written on the envelope and the number shown on the protective counter are identical. If these numbers are found not to be the same, the seal shall not be broken until the officer who prepared the machine or his representative shall arrive and deliver the correct keys or until another and properly sealed machine is delivered. If the numbers written on the envelope and the numbers on the seal of the machine are not identical, then the envelope shall not be opened and the same procedure as above set out shall govern. But if the numbers written on the envelope and the respective numbers on the seal and on the protective counter are found to be the same, the presiding judge shall open the doors concealing the counters, and before the polls are declared open, the election officers and each authorized watcher for any person interested shall carefully examine each counter and see that it registers zero (000). All of those last enumerated then shall examine the ballots and satisfy themselves they are in their proper places on the machine. If the machine is equipped with a device which produces a printed record of the register shown on the counters, the presiding judge shall verify that the printed form is correctly made up and shall take the necessary steps to secure a printed record from each machine, and all the persons authorized to be in the polls shall satisfy themselves that the printed record is correct. The election officers shall cause to be conspicuously placed the sample ballots and model for the guidance of the voters. All the persons authorized to be in the polls shall satisfy themselves that the voting machine is properly placed, being at least three feet from any wall or partition or any other obstruction, and that the face of the machine is turned toward where the election officers and the public may obtain a clear and unobstructed view of the same at all times, except when the curtain on the machine is closed for the casting of the ballot. The election officers and at least two watchers of opposing interest (if there be such) shall then sign a certificate setting out that the keys were delivered intact, that the numbers on the protective counter and the seal correspond with those on the envelope, that all the counters were set at zero (000) and that the ballot labels were in their proper places. If any counter shall be found not to register zero (000), the presiding judge shall write out a statement to that effect and keep the same prominently posted throughout the day showing the number that

counter was found to register, and in filling out the statement of canvass he shall subtract such number from the number found to register on that counter when the polls close. The machine shall then be opened for voting. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 47.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 13. Conduct of the voting. The presiding judge shall be in general charge of the poll and shall see that a clerk of the election properly checks off the name of each voter from the list of qualified voters and enters his name on the poll list before the voter casts his ballot, and stamps or writes "voted" with a rubber stamp or with pen and ink, together with the date of the particular election, on the voter's poll tax receipt or exemption certificate. It shall further be the duty of one of the clerks to see that the voting machine is not tampered with and to attend the machine at all times. He shall inspect the ballot labels after each voter leaves the machine to see that none has been tampered with and to see that the machine has not been injured. He shall see that the coverings of the counter compartments of the machine are never unlocked nor opened so the counters are exposed during voting except for good and sufficient reasons, a statement of which shall be made and signed by all election officers and watchers in the polling place and attached to the returns. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 48.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 17. Unofficial ballot; repair and substitution of machines. If the official ballots for any precinct where voting machines are to be used are not delivered at the time required, or if after delivery they are lost, destroyed or stolen, the authority charged with the duty of furnishing the ballots for the election or the presiding judge of that precinct shall cause other ballots to be prepared, printed or written, as nearly in the form of the official ballots as practicable, and shall cause the ballots so substituted to be used in the same manner, as near as may be, as the official ballots. Such ballots shall be known as unofficial ballots, and a certificate setting out the circumstances of the use shall be made out by the presiding judge and signed by such officer together with every person legally serving in such poll, such certificate to be attached to the canvass from the precinct. Should any voting machine become out of order while being used, it shall, if possible, be repaired or another machine substituted in its place as promptly as possible, and the Commissioners Court of any county in which voting machines have been adopted either in whole or in part, for use in elections, is authorized and empowered to appropriate funds for servicing, repairing or substituting any such voting machines, on a per diem or on such other basis as to said court may appear just and proper. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 49.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 18. Making out the returns and proclamation of the result. Prior to the day of the election, the authority charged with furnishing the supplies for the election shall cause to be prepared the necessary blanks for the statement of canvass mentioned herein, which shall be delivered to the presiding judge with other supplies for the election. The statement of canvass shall be of a form to be approved by the Secretary of State and shall conform with the type of voting machine to be used, and the designating number and letter of each candidate or proposition shall be printed next to the candidate's name or the proposition on the statement of canvass.

As soon as the polls are closed, the election officers shall immediately lock the machine against voting. They then shall sign a certificate stating that the machine was locked and sealed, giving the exact time, and giving the number of voters shown on the public counters, which shall be the total number of votes cast on such machine in that precinct, the number on the seal, and the number registered on the protective counter. (This also shall be the procedure at the close of absentee voting when the machines are used for absentee voting prior to election day.) They then shall open the counting compartment in the presence of the watchers, giving full view of all the counter numbers. The presiding judge shall, under the scrutiny of the watchers, in the order of the offices as their titles are arranged on the machines read and announce in distinct tones the designating number and letter on each counter for each candidate's name, and the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the result on each proposition voted on. The vote as registered shall be entered on the statements of canvass in ink by two clerks and verified by the three election officers and by two watchers of opposing interest (if there be such), the entries to be made in the same order on the space which has the same designating number and letter, after which the figures shall again be verified by being called off in the same manner from the counters of the machines by watchers of opposed interest (if there be such). The returns of the canvass as required by law shall then be filled out and verified, and shall show the number of votes cast for each candidate and the number of votes cast for and against any proposition submitted, and shall be signed by the three election officers and at least two watchers of opposed interest (if such there be). The counter compartments of the voting machine shall remain open throughout the time of the making of all statements and certificates and the official returns and until they have been fully verified, and during such time any candidate or his representative or any representative of any newspaper or press association shall be admitted. The proclamation of the result of the votes cast shall be deliberately announced in a distinct voice by the presiding judge, who shall read the names of each candidate, with the designating number and letter of his counter, and the vote registered on such counter, and also the vote cast for or against any proposition submitted. During such proclamation ample opportunity shall be given to any person lawfully entitled to be in the polling place to compare the results announced with the counter dials of the machine, and any necessary corrections shall then and there be made, after which the doors of the voting machine shall be locked and sealed with the seal provided, so sealing the operating lever of the machine that operation of the voting and counting mechanism will be prevented.

If the machine is provided with a device which produces a printed record of the numbers registered on the counters, the procedure outlined herein shall be followed in lieu of the procedure set out above for preparation of the statements of canvass. After preparation of the certificate giving the number of voters shown on the public counters and the other information as provided for in the preceding paragraph, the presiding judge, in the presence of at least two clerks and two watchers of opposed interest (if such there be) and of any other person lawfully present who wishes to observe, shall take the necessary steps to secure a printed record from each machine. The election officers shall then open the counter compartments and shall compare the printed record with the counters, verifying that the printed record correctly shows the designating number and letter on each counter and the result as shown by the counter numbers. Ample

opportunity shall be given to all persons lawfully entitled to be present at the polling place to examine the printed record and compare it with the machine. The printed record shall then be signed by the presiding judge and two clerks and by two watchers of opposed interest (if such there be), certifying that the printed record was obtained from the machine designated thereon and that the printed record was compared with the machine and correctly records the results as shown on the counter dials, and the certified printed record shall constitute the official statement of canvass for that machine. The returns of the canvass shall then be filled out, verified, and signed as provided in the preceding paragraph.

After the making out of the returns has been completed, the presiding judge shall immediately deliver the statement of canvass and the returns to the proper authorities as provided by law. Irregular ballots, properly sealed and signed, shall be delivered to the officer designated by law as the custodian of voted paper ballots, and shall be preserved in the same manner and for the same length of time as provided by law for other ballots. The presiding judge shall deliver to the county clerk the keys of the voting machine enclosed in a sealed envelope, across the seal of which shall be written his own name together with that of at least two watchers of opposed interest (if such there be) or of two other election officers, and on this envelope shall be recorded the date of the election, the number of the precinct, the number of the seal with which the machine was sealed, the number of the public counter and the number of the protective counter. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 50.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 19. Canvass of the returns; recheck and comparison. The returns shall be canvassed in the same manner as returns from precincts where paper ballots are used; provided, however, that at the time of the making of the official canvass, where voting machines are used in an election, at the written request of any candidate whose name appears on the ballot or on the written petition of twenty-five voters of the county, city or other subdivision for which the election was held, the authority charged with the duty of canvassing the returns shall make, in the presence of a district judge and the county judge of the county in which the election was held, a recheck and comparison of the results shown on the official returns then in process of being canvassed, with the results appearing and registered on the counter dials of each voting machine used in the election for which a request for a recheck has been made. To enable the canvassing authority to make such recheck and comparison, it shall be authorized and empowered to break the seals on each such voting machine. At the conclusion of the recheck and comparison, the voting machine shall again be sealed up, the necessary corrections, if any, shall be made on the returns, and the result of the election shall be declared as shown by the recheck and comparison of the returns of election with counter dials of the voting machines. If voting machines were used which produced a printed record of the votes cast on such machine, candidates and voters shall have the right under the procedure heretofore detailed to have such printed record compared with the counters on the machine from which such printed record was obtained. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 51.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 20. Preservation of Ballots and Records of Voting Machines.

The voting machine shall remain locked against voting for a period of ten days from the day of the election, provided that where a second election occurs within such ten-day period, then the voting machine shall remain locked against voting until the returns of the election are officially canvassed or until the expiration of five days from the day of the election, whichever is the later to occur, and then shall have the seal broken only on the order of a district judge having jurisdiction in that county, such order to be entered on the minutes of the district court of that county, and if in the opinion of such district judge, contest is likely to develop, shall remain locked for such time as the district judge may direct; provided, however, such time shall not be for a period of time that will interfere with or prohibit the use of such machines in a subsequent election. On the order of any court of competent jurisdiction, the seal may be broken for the purpose of proper investigation, and when such investigation is completed, the machine shall again be sealed and across the envelope containing the keys shall be written the signature of the person or persons having broken same. As amended Acts 1961, 57th Leg., p. 88, ch. 51, § 3; Acts 1963, 58th Leg., p. 1017, ch. 424, § 52.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 22. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(a). Eff. 90 days after May 24, 1963, date of adjournment.

Sec. 24. Appointment and compensation of election officers; watchers. The appointment and compensation of the presiding judges and clerks for precincts where voting machines are used shall be governed by the provisions of Sections 15 and 22 of this Code,¹ and their service and duties shall be governed by the general provisions of this Code, except as otherwise provided herein.

The general provisions of this Code, as supplemented herein, shall govern the qualifications, appointment, and service of watchers for precincts where voting machines are used. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 53.

¹ Articles 3.01 and 3.08.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 25. Definitions. The list of candidates and offices and/or propositions to be voted on, used or to be used on the front of the voting machine, shall be deemed official ballots for the purpose of precincts using voting machines.

The word "ballot" as used herein means that portion of the cardboard or other material within the ballot frames containing the names of the candidates and the offices, or the statements of propositions to be voted on, except when referring to irregular or unofficial ballots and except where such word is used in connection with the casting of a vote by a voter, in which event the word "ballot" is defined as the casting of a secret vote.

The terms "protective numbering counter" and "protective counter" mean a separate counter built into the machine which cannot be reset and which records the total number of movements of the operating lever.

The terms "public numbering counter"¹ and "public counter" mean a device in full view of the election officers except while the voter is voting, which records the number of the voter's vote and is cumulative of the num-

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ber of voters casting votes on the machine at the election being held. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 54.

¹ So in enrolled bill.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 7.15. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(a).
Eff. 90 days after May 24, 1963, date of adjournment

CHAPTER EIGHT—CONDUCTING ELECTIONS AND RETURNS THEREOF

Art.
8.13a Use of English language; interpreter [New].

Art.
8.29a Returns of other elections [New].
8.29b Copies of returns, poll lists, and tally lists; distribution [New].

Art. 8.01. Officers of election sworn

Before opening the polls, the presiding judge of election and each of the other judges (if any) and clerks who are present at the opening of the polls shall repeat in an audible voice: "I solemnly swear that I will not in any manner request or seek to persuade or induce any voter to vote for or against any candidate or candidates, or for or against any proposition to be voted on; and that I will faithfully perform this day my duty as officer of the election, and guard as far as I am able, the purity of the ballot box, so help me God." Each clerk who commences his service at any time thereafter shall also repeat the oath before performing any of his duties as an election officer. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 55.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.02. Preliminary arrangements

The presiding judge, the assistant or associate judges, if any, the clerks who are assigned to duty at the opening of the polls, and watchers, if any, shall meet at the polling place at least half an hour before the time for opening the polls, and shall proceed to arrange the guard rail, the space within the guard rail, the voting booths, if any, and the furniture for the orderly and legal conduct of the election. The election officers shall then examine the ballot boxes and the blank official ballots to see that they are properly printed and numbered, removing any unnumbered or otherwise defectively printed ballots, and shall deposit such ballots as are found to be defective in printing in ballot box No. 4 for defective, mutilated, and unused ballots. They shall examine the sample ballots, instruction cards, distance markers, tally sheets, return sheets, certified list of voters, rubber stamps and all things required for the election. The package of official ballots shall remain in the custody of the presiding judge and shall not be opened until the morning of the election and at the polling place. The presiding judge shall cause to be placed, at the distance of one hundred feet from the entrance of the room at which the election is held, visible distance markers in each direction of approaches to the polls, on each of which shall be printed in large letters the words: "Distance marker. No electioneering or loitering between this point and the entrance to the polls." The election officers shall examine the ballot boxes and then relock them, after all present can see that they are empty. The ballot clerks with official ballots, the presiding officer of the election,

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the poll clerk, the election supplies and the certified lists of qualified voters for the precinct, and the watchers, if any, shall be as conveniently near each other as practicable within the polling place. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 56.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.09. Vote challenged

When a person offering to vote at any general, special, or primary election shall be objected to by an election judge or clerk, a poll watcher, or any other person, the presiding judge shall examine him upon oath touching the points of such objection, and if such person establishes his right to vote to the satisfaction of the presiding judge, he shall be permitted to vote, and the word "sworn" shall be written upon the poll list opposite the name of the voter. If upon his own oath the person fails to establish his right to vote to the satisfaction of the presiding judge, his vote shall not be accepted unless in addition to his own oath he submits proof by the oath of one well-known resident of the precinct that he is a qualified voter at such election and in such precinct. When such proof is submitted, his vote shall be accepted, and the word "challenged" and the name and address of the person testifying under oath as to the voter's qualifications shall be written on the poll list opposite the name of the voter. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 57.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.10. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(a).

Eff. 90 days after May 24, 1963, date of adjournment

See, now, art. 8.09.

Art. 8.11. Delivery of ballot

After all defectively printed ballots have been removed, the presiding judge shall cause his signature to be placed on the back of each ballot to be used at the election. The ballots may be signed by the presiding judge in his own handwriting, or they may be stamped with a facsimile of his signature by the presiding judge or by another election officer under his direction. Where a stamp is used, the presiding judge shall take the necessary precaution to see that the stamp is properly safeguarded at all times so that no unauthorized use may be made of it.

After the signature of the presiding judge is placed on the back of the ballots, one of the election officers shall thoroughly disarrange and mix the ballots so that they no longer are in consecutive numbered sequence or in any sequence of arithmetic or geometric progression, and then place the ballots face down in a stack or stacks from which each voter shall be allowed to take his own ballot without the number being known to or written down in any manner by an election officer.

When the election judge is satisfied as to the right of the citizen to vote, a judge or clerk shall place a notation on the list of qualified voters showing that the particular person has voted, shall stamp in legible characters the poll tax receipt or the certificate of exemption with the words "Voted on — day of —, 19—," or write the same words in ink and then return the receipt or certificate to the voter and shall enter the voter's name on the poll list, and shall at the same time allow the voter to select his official ballot as above set out. The voter

shall then immediately retire to a voting booth or a place prepared for voting by the election officers, and there prepare his ballot in the manner provided by law. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 58.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.13 Aid to voter

Not more than one person at the same time shall be permitted to occupy any one compartment, voting booth or place prepared for a voter, nor shall any assistance be given a voter in preparing his ballot, except when a voter is unable to prepare the same himself because of some bodily infirmity, such as renders him physically unable to write or to see, in which case two officers of such election shall assist him, they having first sworn that they will not suggest, by word or sign or gesture, how such voter shall vote; that they will confine their assistance to answering his questions, to stating the propositions to be voted on, and to naming candidates and the political parties to which they belong; and that they will prepare his ballot as such voter himself shall direct. If the election is a general election, the election officers who assist such voters shall be of different political parties, if there be such officers present. One or more watchers may be present when the assistance herein permitted is being given, but each watcher must remain silent except in cases of irregularity or violation of the law.

"Instead of being assisted by two election officers as hereinabove provided, a voter who is entitled to assistance may select any qualified voter residing in the precinct to assist him, and no other person shall be permitted to be present while the ballot is being prepared. Before assisting the voter, the person selected shall take the following oath, which shall be administered by one of the election officers: "I solemnly swear that I will not suggest, by word or sign or gesture, how the voter shall vote; I will confine my assistance to answering his questions, to stating propositions to be voted on and to naming candidates and the political parties to which they belong; and I will prepare his ballot as the voter himself shall direct."

Where any assistance is rendered in preparing a ballot other than as herein allowed, the ballot shall not be counted, but shall be void for all purposes. As amended Acts 1957, 55th Leg., p. 338, ch. 153, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 59.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.13a. Use of English language; interpreter

No election judge or clerk shall use any language other than the English language in performing any duty as such judge or clerk of the election, except that it shall be permissible for him to use some other language when examining, aiding, or giving instructions to a voter who does not understand the English language. Any voter unable to speak or understand the English language may communicate with the election officer in some other language, and if the election officer is unable to speak or understand the language used by the voter or if he requests that the voter communicate through an interpreter, the voter shall be entitled to communicate through an interpreter of his choice, who shall be a qualified voter in the precinct. Before acting as interpreter, the person chosen by the voter shall take the following oath, to be administered by the presiding judge: "I solemnly swear that I will correctly

interpret and translate each question, answer, or statement addressed to the voter by any election officer and each question, answer, or statement addressed to any election officer by the voter." When any language other than the English language is used either by the voter or by an election officer, any election officer or any watcher shall be entitled to request and receive a translation into the English language of anything spoken in another language. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 95a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 60.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.15. Stub Box

Subdivision 1. Preparation of stub box. In every general, special, or primary election, the authority charged with the duty of furnishing supplies for the election shall cause to be prepared for each polling place a stub box, as other boxes of the election, except that the opening thereof shall not exceed one-sixteenth of an inch in width and two and one-fourth inches in length. The stub box shall be submitted to the district clerk of the county, who shall seal it by placing a short ribbon through the hasp on the box and securing the ends of the ribbon with two gummed seals, which shall be sealed together by affixing thereto the seal of the court, so as to make it impossible to open the box without breaking the seal. The district clerk further shall prepare in triplicate a certificate showing the number of the box, the date of the election, and the nature of the election. He shall then place one copy of the certificate in the box before sealing it, shall attach one copy to the outside of the box, and shall retain one copy in his files. The stub box shall be delivered to the election judge at the same time the regular ballot boxes are distributed, and the election judge shall return the box to the district clerk at the time he delivers the regular ballot boxes to the designated place.

Subdivision 2. Custody of stub box. Upon the return of the stub box, the district clerk shall keep the box secure, as other papers of the district court, and shall allow no one to open the box except by order of the district court, upon the trial of an election contest involving the contents of the box or in connection with a criminal investigation. The box shall be treated as other papers of the district court with the exception that it shall not be opened except by order of the court, and the court further shall have the power to punish anyone found guilty of violating the provisions of this subdivision as contempt of court. In event of any contest or criminal investigation growing out of the election within sixty days after the day of the election, the district clerk shall deliver the ballot box to any competent officer having process therefor, for any tribunal or authority authorized by law to demand the box. If no contest or criminal investigation arose out of the election within sixty days after the day of the election, the contents of the box shall be destroyed by fire under the direction of the district judge and in the presence of the county judge and district clerk; 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 the box for such period as he deems necessary, subject to further orders of the court.

Subdivision 3. Depositing ballots. When a voter who is voting in person shall have prepared his ballot, he shall immediately detach therefrom the perforated stub and affix his signature to the back of the same and deposit it in the stub box before depositing his ballot and without disclosing to anyone the number of his stub. Should the voter be

unable to sign his name, he shall place the stub face down so as not to expose the number of his stub and he shall sign the same with an 'X' with the election judge placing the voter's name in the election judge's own handwriting, and the voter shall then drop the stub in the stub box before the voter deposits his ballot. The voter shall then fold the ballot so as to conceal the printing thereon, and so as to expose the signature of the presiding judge on the back of the ballot, then deposit the ballot in the proper ballot box. If a voter signs the stub but fails to detach it before depositing the ballot in the ballot box, the counting officer shall detach the stub and deposit it in the stub box without examining the ballot, and the ballot shall be counted. If a ballot with an unsigned, undetached stub is deposited in the ballot box, the ballot with stub attached shall be placed in ballot No. 3 for voted ballots but shall not be counted. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 61.

Effective 90 days after May 24, 1963, date of adjournment. Voting by personal appearance in county-wide elections, see art. 5.05, subd. 3a.

Art. 8.18. Defective, mutilated, and unused ballots in box No. 4

In any general, special, or primary election, there shall be deposited in ballot box No. 4, in addition to ballots defectively printed, all defaced and mutilated ballots, and, when the polls are closed, all the ballots that have not been voted. The term "defaced and mutilated ballot" as used in this article means a ballot which has been returned by the voter as provided in Section 98 of this Code.¹ It does not include any ballot which a voter has deposited in the ballot box containing ballots to be counted, and the election officers shall place in ballot box No. 3 with other voted ballots any ballot which has been voted but which they refuse to count by reason of its being marked in an unintelligible manner or for any other reason. Ballot box No. 4 shall be locked and shall be delivered to the county judge or other officer receiving the returns for use in the official canvass, at the same time that the returns are delivered, with a statement which shall be placed therein, signed by the presiding judge, of the number of ballots received by him, the number of mutilated or defaced ballots that the box contains, and also the number of ballots not given to voters, as well as those defectively printed, so that, after adding such numbers, all ballots delivered to the election officers may be accounted for. When the returns of votes cast are canvassed by the Commissioners Court or other authority as provided for by law, such ballot box shall be opened, the ballots counted, and a record made of what they found the contents to be. The box shall then be relocked and delivered to the county clerk or other officer having custody of the voted ballots, and shall be preserved by him until expiration of the period for contesting the election. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 62.

¹ Article 8.16.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.19. Deposit and count

At the expiration of one hour after voting has begun, the receiving officers shall deliver ballot box No. 1 to the counting officers, who shall at once deliver in its place ballot box No. 2, which shall again be opened and examined and securely closed and locked; and, until the ballots in box No. 1 have been counted, the voters shall deposit their ballots in box No. 2. Ballot box No. 1 shall, upon its receipt by the counting officers, be immediately opened and the ballots taken out by one of them, who

shall read and distinctly announce while the ballot remains in his hand; the name of each candidate voted for thereon, which shall be noted on the tally sheet. The ballot shall then be placed in box No. 3, which shall remain locked and in view until the counting is finished, when the box shall be returned, locked and sealed, to the county clerk or other officer as provided by law. Ballot boxes No. 1 and No. 2 shall be used by the receiving officers and the counting officers alternately, as above provided, as often as the counting officers have counted and exhausted the ballots in either box. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 63.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.22. Death of candidate before election

If a nominee dies or declines the nomination before the election, and no one is nominated to take his place, his name shall be printed on the ballot and the votes cast for him shall be counted and return made thereof; and, if he shall have received a plurality of the votes cast for the office, the vacancy shall be filled as in case of a vacancy occurring after the election.

If a candidate in the first primary dies after the deadline for filing, his name shall be printed on the first primary ballot and the votes cast for him shall be counted and returned for him. If such a deceased candidate receives a majority of the votes, the proper executive committee shall choose a nominee and certify such name to the proper officer, as provided in Section 233 of this Code,¹ to be printed on the general election ballot. If such a deceased candidate is one of the two highest candidates in that race in the first primary and if no one has a majority vote, the two living candidates with the highest votes shall be certified to have their names printed on the second primary ballot. If a candidate whose name is to appear on the second primary ballot dies between the dates of the first and second primaries, his name shall be printed on the second primary ballot and the votes cast for him shall be counted and returned for him; and if such a deceased candidate receives a majority of the votes in the second primary, the proper executive committee shall choose a nominee and certify his name to the proper officer, as provided in Section 233 of this Code, to be printed on the general election ballot. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 64.

¹ Article 13.56.

Effective 90 days after May 24, 1963, date of adjournment.

Declination or death of nominee, see art. 13.56.

Art. 8.23. Revealing information before polls are closed

It shall not be unlawful for any presiding judge of an election to reveal at any time the number of votes that have been cast up to that time, but it shall be unlawful for any judge, clerk, watcher, or any other person connected with the holding of an election, before the hour for closing the polls, to reveal any information as to the names of persons who have or have not voted at the election, or as to the votes that have been received for or against any proposition or candidate, or as to the candidate who is leading or trailing in the tabulation of the votes. Anyone who is convicted of violating this section shall be fined not to exceed one thousand dollars. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 65.

Effective 90 days after May 24, 1963, date of adjournment.

Absentee voting, special canvassing board and watchers revealing information as to results of election, see art. 5.05, subd. 6.

Art. 8.25. Tabulation of unofficial returns

Sec. 5. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(a).
Eff. 90 days after May 24, 1963, date of adjournment.

See, now, art. 7.14, § 7.

Art. 8.29. Returns of elections held by the county

When the ballots have all been counted, the presiding judge of the election in person shall make out returns of the same certified to be correct and signed by him officially, showing: (1) the total number of votes polled at such polling place, and (2) the total number of votes polled for each candidate and/or the number polled for or against any proposition voted on. One of the returns, together with a poll list and tally list, shall be sealed up in an envelope and delivered by the presiding judge to the county judge of the county for use in the official canvass of the result. Another of said returns, together with a poll list and tally list, shall be delivered to the county clerk of the county to be kept by him in his office open to inspection by the public for sixty days from the day of the election. Another of said returns, together with a poll list and tally list, shall be placed in the ballot box containing the voted ballots; and the other of said returns, together with a poll list, shall be retained by the presiding judge of the election for sixty days from the day of the election. In case of vacancy in the office of county judge, or the absence, failure or inability of that officer to act, the election returns for use in the official canvass shall be delivered to the county clerk of the county, who shall safely keep the same in his office, and he, or the county judge, shall deliver the same to the Commissioners Court on the day appointed by law to open and canvass the returns of the election. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 66.

Effective 90 days after May 24, 1964, date of adjournment.

Art. 8.29a. Returns of other elections

When some other statute regulating the conduct of a specific type of election provides the procedure for making returns of the election, for canvass of the returns, or for custody and disposition of the voted ballots, those provisions shall govern such matters in the conduct of the election. In the absence of such other law, the provisions of this Code applicable to elections held by the county, as modified by this section, shall govern such matters for all elections held by cities, school districts, and other political subdivisions of this state, insofar as these provisions can be made applicable, and references in this Code to the county judge, commissioners court, and the county clerk shall be deemed to mean the appropriate officer or board, as herein provided, for the type of election involved.

Unless otherwise provided by law, the returns of all elections held at the expense of the county shall be canvassed by the Commissioners Court, and the copy of the precinct returns and accompanying records for use in the official canvass shall be delivered to the county judge. The county clerk shall have custody of the voted ballots; the copy of the returns and accompanying records for public inspection shall be delivered to the county clerk; and the keys to the ballot boxes containing the voted ballots shall be delivered to the sheriff.

Unless otherwise provided by law, the returns for all municipal elections shall be canvassed by the city governing body and the copy of the precinct returns and accompanying records for use in the official canvass shall be delivered to the mayor. The city secretary or clerk shall have

custody of the voted ballots; the copy of the returns and accompanying records for public inspection shall be delivered to the city secretary or clerk; and the keys to the ballot boxes containing the voted ballots shall be delivered to the city marshal or chief police officer. If the city has no city marshal or chief police officer, or if such office is vacant, the keys shall be delivered to the sheriff of the county in which the city is located, and if located in more than one county, to the sheriff of the county in which the office of the mayor is maintained.

Unless otherwise provided by law, the returns of all elections held by school districts, conservation districts, and other political subdivisions shall be canvassed by the governing board of the subdivision holding the election, and the copy of the returns and accompanying records for use in the official canvass shall be delivered to the presiding officer of the governing board. The governing board shall make proper provision for custody, storage, and safekeeping of the ballot boxes containing the voted ballots, which shall be delivered to the presiding officer or to such other person as the governing board shall direct. The copy of the returns and accompanying records for public inspection shall be delivered to the presiding officer of the governing board. The keys to the ballot boxes containing the voted ballots shall be delivered to the constable of the justice precinct in which the office of the governing board of the subdivision is maintained. If the office of constable is vacant, the keys shall be delivered to the sheriff of the county in which the office of the governing board of the subdivision is maintained. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 111a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 67.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.29b. Copies of returns, poll lists, and tally lists; distribution

(a) In precincts using paper ballots. In all general, special, and primary elections, the number of copies of the returns, poll list, and tally list required for each precinct in which paper ballots are used shall be as follows: four copies of the returns, four copies of the poll list, and three copies of the tally list. These records shall be distributed as follows:

(1) One copy of the returns, poll list, and tally list shall be delivered to the presiding officer of the authority which canvasses the returns (the county judge in elections held by the county; the mayor in city elections; the presiding officer of the governing board in elections held by other political subdivisions; and the chairman of the county executive committee in county primary elections) and shall be preserved by the canvassing authority for sixty days from the day of the election.

(2) One copy of the returns, poll list, and tally list shall be delivered to the proper officer (the county clerk in elections held by the county and in county primary elections; the city secretary or clerk in municipal elections; and the presiding officer of the governing board in elections held by other political subdivisions), to be kept by him in his office open to inspection by the public for sixty days from the day of the election.

(3) One copy of the returns, poll list, and tally list shall be placed in the ballot box containing the voted ballots.

(4) The presiding judge shall retain in his custody one copy of the returns and one copy of the poll list of the election, and shall keep the same for sixty days after the day of the election, subject to the inspection of anyone interested in such election.

(b) In precincts using voting machines. In all general, special, and primary elections, there shall be made out, for each precinct in which voting machines are used, three copies of the poll list and three copies of the returns. These records shall be distributed and preserved as provided in Paragraphs (1), (2), and (4) of Subdivision (a) of this section, and shall be subject to the provisions of Subdivision (c) of this section.

(c) Destruction of records. In event of any contest or criminal investigation growing out of an election within sixty days after the day of the election any officer having custody of records of the election shall deliver such records to any competent officer having process therefor, for any tribunal or authority authorized by law to demand them. If no contest or criminal investigation arose within sixty days after the day of the election, the records referred to in Paragraphs (1), (2), and (4) of Subdivision (a) of this section may be destroyed after the expiration of the sixty-day period; provided, however, that no record shall be destroyed until all laws providing for recordation of any information contained therein have been complied with; and provided further, 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 any election record for such period as he deems necessary, subject to further orders of the court. The records referred to in Paragraph (3) of Subdivision (a) of this section, which are placed in the ballot box containing the voted ballots, shall be destroyed at the same time that the voted ballots are destroyed, as provided elsewhere in this Code. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 111b added Acts 1963, 58th Leg., p. 1017, ch. 424, § 68.

Effective 90 days after May 24, 1962, date of adjournment. Returns and canvass, see art. 13.24.

Art. 8.30. Time for report by election judges

The presiding judges in the several precincts in this state, in general and special elections, shall deliver the written returns of the election to the county judge of their respective counties immediately after all votes have been counted and tabulated, and not later than twenty-four hours after the closing of the polls. Within forty-eight hours after the returns have been canvassed by the commissioners court, as provided by law, the county judges shall forward by mail to the Secretary of State complete returns of the general and special elections in their respective counties. If a county judge fails or neglects to make such report the county clerk is hereby authorized to forward by mail to the Secretary of State complete returns of the general and special elections in their respective counties and if both the county judge and the county clerk neglect or fail to make such report, it shall be the duty of the Secretary of State to request by mail, telephone or telegraph that the report be forwarded to him immediately. In case no report is had from such county within ten days from the day of the election, it shall be the duty of the Secretary of State to send a special messenger to such county to obtain from the proper officers a complete return of such election, and the expense of such messenger shall be paid from the general fund of such county. This section shall in no wise be construed as repealing Section 122 of this Code.¹ As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 69.

¹ Article 8.40.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.31. Return of election supplies

The presiding judge shall deliver the certified lists of qualified voters and all stationery, rubber stamps, blank forms, and other election supplies not used, to the county clerk at the same time that he delivers the returns of the election, and not later than twenty-four hours after the closing of the polls. He shall provide for the safe storage of the voting booths in some place and notify the county clerk. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 70.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.32. Ballots and copy of returns delivered to county clerk

Immediately after the counting of the ballots is completed, the presiding judge shall place all the ballots voted, together with one copy of the returns, poll list, and tally list, into a wooden or metallic box, and shall securely fasten the box with nails, screws, or locks, and he shall immediately, and in no case later than twenty-four hours after the closing of the polls, deliver the box to the county clerk of his county. He shall deliver the key or keys to the sheriff, who shall keep the same for thirty days. It shall be the duty of the county clerk to keep the box securely, and it shall be unlawful for the county clerk or anyone else to burn or otherwise destroy these ballots and records, or permit it to be done, except where provided for by the law; and anyone violating this provision of this section upon conviction shall be fined not to exceed one thousand dollars. Also, the presiding judge shall deliver a copy of the returns, together with a copy of the poll list and tally list, to the county clerk at the same time that he delivers the ballot box, and the clerk shall immediately announce the returns of the election in the precinct reporting, and shall post the returns on a bulletin board within his office. In event of any contest or criminal investigation growing out of the election within sixty days after the day of the election, the county clerk shall deliver the ballot box to any competent officer having process therefor, for any tribunal or authority authorized by law to demand such box. If no contest or criminal investigation arose out of the election within sixty days after the day of such election, the clerk shall destroy the contents of the ballot box by burning same; 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 the ballot box for such period as he deems necessary, subject to further orders of the court. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 71.

Effective 90 days after May 24, 1963, date of adjournment.

Nominations, ballots delivered to county clerk, see art. 13.23.

Art. 8.33. Repealed. Act 1963, 58th Leg., p. 1077, ch. 424, § 121(a).

Eff. 90 days after May 24, 1963, date of adjournment

See, now, arts. 8.29, 8.29b.

Art. 8.34. Commissioners to open return

Returns and canvass, see art. 13.24.

Art. 8.36. Certificates of election

After the canvass of the result of the election has been made, the county judge shall deliver to the candidate or candidates for whom the greatest number of votes have been polled for county and precinct officers

a certificate of election, naming therein the office to which such candidate has been elected, the number of votes polled for him, and the day on which such election was held, and shall sign the same and cause the seal of the county court to be impressed thereon. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 72.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.37. Returns for certain State and district officers

Returns for members of the legislature in special elections, see art. 8.42.

Art. 8.38. Such returns counted

On the seventeenth day after the election, the day of election excluded, and not before, the Secretary of State in the presence of the Governor and one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, or in case of vacancy or of inability or failure of either to act, then in the presence of either one (1) of them, shall open and count the returns of the elections. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 13.

Effective 90 days after May 24, 1963, date of adjournment. meetings, Vernon's Ann.Civ.St. art. 3183a, note.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official

Returns for members of the legislature in general elections, see art. 8.41.

Art. 8.40. Returns for Governor and Lieutenant Governor

Saved From Repeal

Article 8.30, requiring election judges to deliver written returns to the county judges immediately after all votes have been counted and tabulated, provides in the last sentence that it should in no wise be construed as repealing this article.

Art. 8.41. Returns for members of the Legislature in general elections

In all general elections for State Senator or State Representative, the county judge shall make returns of the election within the time and in the manner provided for other officers in Section 119 of this Code.¹ The returns shall be canvassed by the Secretary of State as provided in Section 120,² and the Secretary of State shall immediately issue a certificate of election to the person receiving the highest number of votes for each of said offices. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 73.

¹ Article 8.37.

² Article 8.38.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8.42. Returns for members of the Legislature in special elections

Whenever there shall be held a special election in any representative or senatorial district in this state for the election of any member of the Legislature, the Commissioners Court of each county in such district shall meet within three days after such election is held, and canvass the returns thereof. The county judge of each county in which such election was held shall make returns of the election to the Secretary of State as provided in Section 119 of this Code,¹ except that the returns shall be made and forwarded to the Secretary of State within twenty-four hours after the can-

vass by the Commissioners Court. On the seventh day after the election, the day of election excluded, or as soon thereafter as possible, the Secretary of State, in the presence of the Governor and the Attorney General, or in case of vacancy in either of said offices, or of inability or failure of either of said officers to act, then in the presence of either of them, shall canvass the returns of the election and shall immediately issue a certificate of election to the person receiving the highest number of votes for said office. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 74.

¹ Article 8.37.

Effective 90 days after May 24, 1963, date of adjournment.

Special elections for United States Representative, see art. 4.11.

Art. 8.44. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(a).
Eff. 90 days after May 24, 1963, date of adjournment

See, now, arts. 4.11, 8.42.

CHAPTER NINE—CONTESTING ELECTIONS

Altering or destroying ballots, see Vernon's Ann.P.C. art. 244.

Art. 9.29. For Presidential electors

Any person intending to contest the election of any or all of the persons duly declared elected as electors of president and vice-president, shall within ten (10) days from the said fourth Monday in November, file with the Secretary of State a written statement of the ground on which such contestant relies to sustain such contest, and shall within such time, notify the contestee thereof in writing, and deliver to him, his agent or attorney, a copy of said statement. The contestee shall, within eight (8) days after receiving such notice, file with the Secretary of State his reply thereto in writing. The contest shall, as soon thereafter as possible, be tried and determined by the State Board of Canvassers, consisting of the Governor, one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, and Secretary of State, or any two (2) of them; and their decision shall be rendered at least two (2) days before the time fixed by law for the meetings of the electors. Such decision, in which two (2) at least of such Board shall join, shall be final, and certificates of election, in accordance therewith shall at once be issued by the Secretary of State to the proper parties. Where not otherwise herein provided, the provisions of law relating to contests for the validity of an election for members of the Legislature shall apply to such contests for presidential electors. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 14.

Effective 90 days after May 24, 1963, date of adjournment.

Occurred when performing duties at official meetings, Vernon's Ann.Civ.St. art. 3183a, note.

Reimbursement of citizen members of boards and commissions for expenses in-

CHAPTER ELEVEN—PRESIDENTIAL ELECTION

Art.

11.01a. Parties entitled to nominate presidential elector candidates [New].

Art. 11.01a. Parties entitled to nominate presidential elector candidates

Any political party may nominate candidates for presidential electors and have the names of its candidates for President and Vice-President printed on the ballot if the party shall have qualified in the manner hereinafter set forth:

(1) Such party must hold a state convention at the time and under conditions prescribed by Section 235 of this Code,¹ composed of delegates from county conventions held in accordance with law.

(2) It shall not be necessary that county conventions whose delegates comprise the state convention be held in all counties of the state, but such conventions must be held in not less than twenty counties comprising in the aggregate not less than twenty per cent of the population of the state.

(3) The chairman of the state executive committee of the party shall certify under oath to the Secretary of State that the conditions of this section have been complied with. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 170a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 75.

¹ Article 13.53.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 11.02. Effect of votes for candidates of political parties

A vote for the candidates of any political party for both President and Vice-President of the United States shall be conclusively deemed to be a vote for candidates for the same party for presidential electors, and shall be so counted and recorded for such electors as the state shall be empowered to elect. No vote shall be counted unless the voter has cast his vote for both the candidate for President and the candidate for Vice-President of the same political party. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 76.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 11.04. Certification of candidates

The names of the candidates for President and Vice-President and for presidential electors, respectively, of a political party as defined in the law shall be certified to the Secretary of State by the chairman and secretary of the state committee of the party at least thirty-five days prior to the election. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 77.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER TWELVE—UNITED STATES SENATORS

Art. 12.02. Vacancy in office of United States Senator or Congressman-at-Large

3. If a vacancy occurs in the office of a United States Senator or a Congressman-at-Large during the year in which a general election is held in this state and prior to the tenth day of March of said year, the Governor shall, within five days after the vacancy occurs, issue writs of election directing that the nomination and election of a United States Senator or of a Congressman-at-Large to fill such vacancy shall be accomplished in the manner provided by law for the nomination and election of the Governor; provided that when a vacancy in either or both of said offices is to be filled in this manner, a candidate for nomination by any political party holding a primary election in that year shall have until the first day of April of the election year to make application to have his name placed on the official ballot to be used in the primary election held by said political party for choosing its nominee for said office to run in the general election. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 78.

Effective 90 days after May 24, 1963, date of adjournment.

4. If such vacancy occurs in either or both of the aforesaid offices during a year in which no general election is to be held or after the ninth day of March of a general election year, the vacancy shall be filled at a special election or special elections, the first of which shall be called by writ of election, issued by the Governor within five days after the vacancy occurs, directing that a special election be held throughout the state on a specified day, which shall be not less than sixty days nor more than ninety days after the date of the writ, for the purpose of electing a United States Senator or a Congressman-at-Large to fill the existing vacancy and to serve for the unexpired term of the then vacant office. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 78.

Effective 90 days after May 24, 1963, date of adjournment.

Special elections for United States Representative, see art. 4.11.

Nomination and election to fill unexpired term, see art. 13.12a.

CHAPTER THIRTEEN—NOMINATIONS

1. BY PARTIES OF TWO HUNDRED THOUSAND (200,000) VOTES OR OVER

- Art. 13.01a. Who are members of organized party [New].
- 13.07a Deposit to accompany application for place on ballot [New].
- 13.08b Refund upon death or withdrawal of candidate [New].
- 13.08c Fees and assessments of write-in candidates [New].

- Art. 13.11a Ineligibility to become opposing candidate [New].
- 13.12a Nomination and election to fill unexpired term [New].
- 13.18a District executive committees [New].
- 13.26a Withdrawal of candidate in second primary [New].
- 13.34a Refusing employee privilege of attending precinct convention [New].

1. BY PARTIES OF TWO HUNDRED THOUSAND (200,000) VOTES OR OVER

Art. 13.01. Primary Election

Participating in primary elections or conventions of more than one party, see Vernon's Ann.P.C. art. 240.

Art. 13.01a. Who are members of organized party

(2) The election and convention procedure of the party shall include the primary held on the first Saturday in May in even-numbered years and the second primary held on the first Saturday in June in such years and shall include the conventions of the party at precinct, county and state level in both its state convention procedure and its national convention procedure insofar as they apply herein. As amended Acts 1963, 58th Leg. p. 1017, ch. 424, § 79.

Effective 90 days after May 24, 1963, date of adjournment.

Political affiliation of taxpayer, form of poll tax receipt, see art. 5.14.

County and precinct conventions, see art. 13.34.

Registration certificate books, see art. 5.14a.

Art. 13.02. Nominated at Primary

Participating in primary elections or conventions of more than one party, see Vernon's Ann.P.C. art. 240.

Art. 13.05. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(a).

Eff. 90 days after May 24, 1963, date of adjournment

See, now, arts. 3.01, 3.05.

Art. 13.07a. Deposit to accompany application for place on ballot

Every candidate subject to assessment by the county executive committee under Section 186 or Section 186a of this Code¹ for a portion of the expenses of holding the primary elections, except candidates for the Legislature and for the State Board of Education, shall pay to the county chairman, at the time of filing his application for a place on the ballot, a deposit of fifty dollars. In case of district offices in districts of more than one county, the candidate shall pay a deposit of fifty dollars to each county chairman with whom his application is filed. A candidate for the Legislature shall pay to the county chairman, at the time of filing his application, a deposit in the amount of the maximum amount which he may be assessed in that county, or the amount of the filing fee in that county in cases where a fixed fee is prescribed. A candidate for the State Board of Education shall pay to each county chairman, at the time of filing his application, the quotient obtained upon dividing fifty dollars by the number of counties in the district in which he is a candidate.

After the county executive committee makes the assessments, it shall refund to each candidate within thirty days thereafter the amount of the payment in excess of the assessment against the candidate, if the deposit exceeds the assessment. If the deposit does not exceed the assessment, the balance due on the assessment shall be paid as provided in Section 186.

The deposit herein required shall become a part of the primary fund and shall not be refundable for any reason, except to the extent that it exceeds the assessment against the candidate or represents a surplus in the primary fund after all expenses of the primary elections have been paid. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 185a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 80.

¹ Articles 13.08 and 13.08a.

Effective 90 days after May 24, 1963, date of adjournment.

Refund upon death or withdrawal of candidate, see art. 13.08b.

Nomination and election to fill unexpired term, see art. 13.12a.

Art. 13.08. Expenses of primary

Prior to the assessment of the candidates, the county committee shall carefully estimate the cost of printing the official ballots, renting polling places where same may be found necessary, providing and distributing all necessary poll books, blank stationery and voting booths required, compensation of election officers and clerks, and all other necessary expenses of holding the general primary and second primary in such county and on the second Monday in February preceding each primary, shall apportion such cost in such manner as in their judgment is just and equitable among the various candidates for nomination for district, county, and precinct offices only as herein defined, except the offices of Justice of the Court of Civil Appeals and member of the State Board of Education. Where a district office, except for members of the Legislature, members of the State Board of Education, and Justices of the Court of Civil Appeals, covers more than one county, the assessment of such candidate by the county shall be not more than a sum which is the quotient of the amount which he would be assessed if he represented only one county determined by the formula used to assess county candidates, when divided by the number of counties in his district. In making the assessment upon any candidate the committee shall give due consideration to the importance, emolument, and term of office for which the nomination is to be made. The committee shall by resolution direct the chairman to mail immediately to each person against whom an assessment is made a statement of the amount of such expenses apportioned to him, with the request that he pay to the county chairman, on or before the Saturday before the third Monday in February thereafter, the difference between the amount of the assessment and the amount of the deposit which accompanied his application; and no person's name shall be placed on the ballot unless he pays the assessment within the prescribed time. A candidate filing subsequently shall not be required to accompany his application with the deposit provided for in Section 185a of this Code,¹ but shall pay the full amount assessed against him by the county executive committee within one week from the date on which his application is filed; provided, however, that where a fixed filing fee is required for any office included in this section, the amount of the fee must accompany the application. It shall be sufficient to meet the requirements of this law to mail by registered or certified letter to the chairman before the deadline herein provided, as shown by the postmark on the letter, a money order, a certified check, or a good personal check; but it shall not be sufficient to make the payment by any other type of mail unless it is delivered before the deadline.

A candidate for the State Board of Education shall pay a filing fee of fifty dollars, which shall be prorated equally among the counties comprising the district in which he is a candidate, and the prorated amount shall be paid to each county chairman at the time the candidate files his application for a place on the ballot. As amended Acts 1955, 54th Leg., p. 1131, ch. 424, § 1; Acts 1955, 54th Leg., p. 1295, ch. 513, § 1; Acts 1959, 56th Leg., p. 335, ch. 165, § 2; Acts 1963, 58th Leg., p. 1017, ch. 424, § 81.

¹ Article 13.07a.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.08a. Assessment of candidates in counties having certain populations

Candidates for any precinct, county or district office in counties which have a population of one million or more, according to the last preceding Federal Census, except candidates for the State Legislature and the State

Board of Education, shall not be assessed a sum in excess of ten per cent of the aggregate annual salary provided for any office of two-year terms, and fifteen per cent of the aggregate annual salary provided for any office of four-year terms, to have their names placed on the ballot in any primary election. Candidates for the State Board of Education shall pay the filing fee prescribed by Section 186 of this Code.¹

Notwithstanding other provisions of law, the county executive committee in any county which has a population of one million or more, according to the last preceding Federal Census, may require candidates for State Representative to pay an amount not exceeding five hundred dollars to have their names placed upon the ballot in a primary election. A candidate for nomination for State Senator shall pay the full amount of one thousand dollars as filing fee for office of State Senator to have his name placed upon the ballot in a primary election at the time he files his application for a place on the ballot. The payment must accompany the application and must be in the form of cash, money order, cashier's check or certified check. The application and payment must be delivered to the proper party chairman or secretary by the deadline for making application for a place on the ballot, and it shall not be sufficient for the application and payment to have been mailed before the deadline unless they are actually delivered by the deadline. After the county executive committee makes the assessments as provided in Section 186 of this Code, it shall refund to each candidate within thirty days thereafter the amount of the payment in excess of the assessment against the candidate.

Notwithstanding other provisions of law, the county executive committee in any county which has a population of six hundred thousand to one million, according to the last preceding Federal Census, shall require candidates for State Senator or State Representative to pay the amount of three hundred dollars to have their names placed upon the ballot in a primary election.

"In any state representative district consisting of eight and not more than nine counties, the chairmen of the county executive committees shall require candidates for State Representative to pay an amount of twenty-five dollars for each of the counties in said representative district, to have their names placed upon the ballot in a primary election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 186a added Acts 1957, 55th Leg., p. 1426, ch. 494, § 1, as amended Acts 1962, 57th Leg., 3rd C.S., p. 45, ch. 16, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 82.

¹ Article 13.08.

Effective 90 days after May 24, 1963, date of adjournment.

*Amendment by Acts 1963, 58th Leg., p. 1280, ch. 492, § 1,
see art. 13.08a, post*

Art. 13.08a. Assessment of candidates in counties having certain populations

Candidates for any precinct, county or district office and the office of Congress in counties which have a population of one million (1,000,000) or more, according to the last preceding Federal Census, except candidates for the State Legislature and State Board of Education, shall not be assessed a sum in excess of ten per cent (10%) of the aggregate annual salary provided for any office of two-year terms, and fifteen per cent (15%) of the aggregate annual salary provided for any office of four-year terms, to have their names placed on the ballot in any primary

election. Candidates for the State Board of Education shall not be assessed a sum in excess of the amount stated in Section 186 of this Code.¹

Notwithstanding other provisions of law, the county executive committee in any county which has a population of one million (1,000,000) or more, according to the last preceding Federal Census, may require candidates for State Representative to pay an amount not exceeding Five Hundred Dollars (\$500) to have their names placed upon the ballot in a primary election. A candidate for nomination for State Senator shall pay the full amount of One Thousand Dollars (\$1,000) as filing fee for office of State Senator to have his name placed upon the ballot in a primary election at the time he files his application for a place on the ballot. The payment must accompany the application and must be in the form of cash, money order, cashier's check or certified check. The application and payment must be delivered to the proper party chairman or secretary by the deadline for making application for a place on the ballot, and it shall not be sufficient for the application and payment to have been mailed before the deadline unless they are actually delivered by the deadline. After the county executive committee makes the assessments as provided in Section 186 of this Code, it shall refund to each candidate within thirty (30) days thereafter the amount of the payment in excess of the assessment against the candidate.

Notwithstanding other provisions of law, the county executive committee, in any county which has a population of nine hundred thousand (900,000) to one million (1,000,000), according to the last preceding Federal Census, shall require candidates for State Senator or State Representative to pay the amount of Three Hundred Dollars (\$300) to have their names placed upon the ballot in a primary election.

Notwithstanding other provisions of law, the county executive committee in any county which has a population of six hundred and fifty thousand (650,000) to nine hundred thousand (900,000), according to the last preceding Federal Census, shall require candidates for State Senator or State Representative to pay the amount of Five Hundred Dollars (\$500) to have their names placed upon the ballot in a primary election; and such payment must accompany the application and must be in the form of cash, money order, cashier's check or certified check which shall in no event be refunded except in case of the death of the applicant before the primary election.

In any State Representative District consisting of eight (8) and not more than nine (9) counties, the chairmen of the county executive committees shall require candidates for State Representative to pay an amount of Twenty-five Dollars (\$25) for each of the counties in said Representative District, to have their names placed upon the ballot in a primary election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 186a, added Acts 1957, 55th Leg., p. 1426, ch. 494, § 1, as amended Acts 1962, 57th Leg., 3rd C.S., p. 45, ch. 16, § 1; Acts 1963, 58th Leg., p. 1280, ch. 492, § 1.

¹ Article 13.08.

Effective 90 days after May 24, 1963, date of adjournment.

*Amendment by Acts 1963, 58th Leg., p. 424, ch. 82,
see § 13.08a, ante.*

Art. 13.08b. Refund upon death or withdrawal of candidate

The state executive committee shall not refund any filing fee paid to it. If a candidate who is subject to assessment by the county executive committee dies or withdraws before the first primary, the county executive

committee within its discretion may refund the amount of the assessment paid by the candidate, or any part thereof, which is in excess of the deposit which accompanied the candidate's application. Fixed filing fees paid to the county executive committee shall not be refunded, and the deposits of candidates shall be refunded only as provided in Section 185a of this Code.¹ If a candidate subject to assessment dies after the deadline for filing but before the assessments are made, no assessment shall be made against him and his name shall nevertheless be printed on the ballot as provided in Section 104 of this Code.² However, the committee shall determine the amount which would have been assessed against him, and if the amount of the deposit made by the candidate exceeds that amount, the committee shall refund the difference to his estate. If a candidate withdraws before the assessments are made, the committee shall determine the amount which would have been assessed against him if he had remained a candidate, and if the amount of the deposit made by the candidate exceeds that amount, the committee shall refund the difference to him. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 186b added Acts 1963, 58th Leg., p. 1017, ch. 424, § 83.

¹ Article 13.07a.

² Article 8.22.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.08c. Fees and assessments of writ-in candidates

If a write-in candidate in the first primary receives a majority of the votes in that primary or is one of the two highest candidates in a race in which no candidate received a majority of the votes, his name shall not be certified to be placed on the general election ballot as the party's nominee, or be placed on the second primary ballot, as the case may be, unless and until he pays to the chairman of the appropriate executive committee or committees the amount of the filing fee, if an office for which a fixed fee is prescribed, or the amount of the assessment against other candidates for the office, if an office subject to assessment by the county executive committee, or if no candidate's name was on the first primary ballot, the amount which would have been assessed under the formula used by the county executive committee for determining the amount of assessments. The fee or assessment shall be paid to the chairman or chairmen to whom it would have been paid if his name had appeared on the first primary ballot. If he is to be a candidate in the second primary, he must pay the fee or assessment within three days after the official canvass of the returns of the first primary by the committee which certifies his name for a place on the second primary ballot. If nominated in the first primary, he must pay the fee or assessment within ten days after the official canvass. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 186c added Acts 1963, 58th Leg., p. 1017, ch. 424, § 84.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.09. Balloting at primaries; when write-in votes not permitted

The vote at all primary elections shall be by official ballot, which shall have a detachable stub as described in Section 61 of this Code.¹ The name of the party shall be printed at the head of the ballot, and under such head shall be printed the names of all candidates, those for each nomination being arranged in the order determined by the county executive committee as herein provided for, beneath the title of the office for which the nomination is sought. On the general primary ballot, an appropriate space for a write-in candidate shall be provided under the title of each

office. If for any office, other than the party office of county chairman or precinct chairman, there is no candidate whose name is to be printed on the general primary ballot, the title of the office shall not be printed on the ballot and no write-in vote for such office shall be counted. If no candidate's name is to be printed on the ballot for the office of county chairman or precinct chairman, the title of the office shall nevertheless be printed on the ballot and an appropriate space for a write-in candidate shall be provided under the title of the office. The ballot shall also contain the instruction note prescribed in Section 61 of this Code.

The official ballot shall be printed in black ink upon white paper. Alongside or beneath the name of each candidate for a state or district office there shall be printed the county of his residence. The ballot shall be printed by the county committee in each county, which shall furnish to the presiding judge of the general primary for each voting precinct at least as many of such official ballots plus ten per cent as there are poll taxes paid for such precinct, as shown by the tax collector's list.

Where two or more candidates are to be nominated for the same office, to be voted for by the qualified voters of the same district, county, or justice precinct, such candidates shall be voted for and nominations made separately, and all such nominations shall be separately designated on the official ballots by numbering the same "Place No. 1," "Place No. 2," etc. Each candidate for such nominations shall designate in the announcement of his candidacy, and in his request to have his name placed on the official ballot, the number of the nomination for which he desires to become a candidate, and the names of all candidates so requesting shall have their names printed beneath the title of the office and the number so designated. Each voter shall vote for only one candidate for each nomination. As amended Acts 1957, 55th Leg., p. 802, ch. 338, § 3; Acts 1963, 58th Leg., p. 1017, ch. 424, § 85.

¹ Article 6.05.

Effective 90 days after May 24, 1963, date of adjournment.

**Art. 13.10. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(a).
Eff. 90 days after May 24, 1963, date of adjournment**

See, now, art. 6.05a.

Art. 13.11a. Ineligibility to become opposing candidate

Any person who has participated as a voter or as a candidate in either the first primary election or the runoff primary election of a political party shall be ineligible to have his name printed on the ballot at the succeeding general or special election as an independent candidate for any office for which a nomination was made by such party at either such primary election, and shall be ineligible to have his name printed on the ballot as the nominee of any other party for any office to be voted on at the general or special election. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 189a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 86.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.12. Application for place on ballot

The application to have the name of any person affiliating with any party placed on the official ballot for a general primary as a candidate for the nomination of such party for any office for which a nomination may be made at such primary shall be governed by the following:

1. Such application shall be in writing, indicating the office for which nomination is sought and whether for a full term or for an unexpired term, signed and duly acknowledged by the person desiring such nomination, or by twenty-five qualified voters. It shall state the occupation, county of residence, and post-office address of such person, and if made by him shall also state his age. If the application is made by qualified voters, there shall be endorsed on the application or filed in a separate instrument, before the deadline for filing applications, a statement signed by the candidate showing his consent to such candidacy.

2. The application shall be filed with the state chairman in the case of state-wide offices, with the county chairman of each county composing the district in the case of district offices in districts consisting of more than one county, and with the county chairman of the particular county in the case of county and precinct offices and district offices in districts consisting of only one county or part of one county; provided, however, that applications of candidates for Justice of the Court of Civil Appeals shall be filed with the state chairman. The application shall be filed not later than the first Monday in February preceding such primary; provided, however, that in the event there is no candidate for the nomination of any office due to the death of the one who had filed, applications may be filed not later than the first Monday in March preceding the primary. An application shall be considered filed if sent to the proper chairman at his post-office address by registered or certified mail from any point in this state before the filing deadline, as shown by the postmark. Any application not received by the chairman before the deadline does not comply with this law unless it has been mailed by registered or certified mail as herein provided, and it shall not be sufficient to send the application by any other type of mail unless it is delivered before the deadline.

3. Within three days after the first Monday in February, the state chairman shall file with the Secretary of State, and each county chairman shall file with the county clerk of his county, a list of the names of all candidates, arranged by office for which nomination is sought, whose applications were filed before the deadline. In like manner each chairman shall file, within three days after the first Monday in March, a supplemental list of any candidates whose applications were timely received after the original list was prepared.

4. On the second Monday in March preceding each general primary, the state committee shall meet at some place to be designated by its chairman, who shall not less than three days prior to such meeting notify by mail all members of the committee and all persons whose names have been requested to be placed upon the official ballot of such designation. Such committee at this meeting by resolution shall direct their chairman to certify to each county chairman the names and county of residence of such candidates as shown by the applications received by him. Copies of such certificates shall be immediately furnished to each newspaper in the state desiring to publish same, and one copy shall at once be mailed to the chairman of the executive committee of each county.

5. The terms of this law shall apply to the county chairman and precinct committeemen, and the names of such candidates shall not be printed on the primary ballot unless such application shall have been filed as provided herein. As amended Acts 1959, 56th Leg., p. 335, ch. 165,

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§ 3; Acts 1962, 57th Leg., 3rd C.S., p. 45, ch. 16, § 2; Acts 1963, 58th Leg., p. 1017, ch. 424, § 87.

Effective 90 days after May 24, 1963, date of adjournment.

Filing application for nomination by convention, see art. 13.47a.

Art. 13.12a. Nomination and election to fill unexpired term

(1) Offices to which applicable; occurrence of vacancy. The provisions of this section shall govern nomination for and election to unexpired terms which are to be filled by election at the general election, in state, district, county and precinct offices having regular full terms of four or six years, where the vacancy occurs in an even-numbered year in which an election is not being held for the succeeding full term. It does not apply to offices, vacancies in which are to be filled by special election, nor does it apply to the office of United States Senator, which is governed by Section 177 of this Code.¹ For the purpose of this section, where the incumbent of an office has submitted a resignation to become effective at a future date, the vacancy shall not be deemed to have occurred until the effective date of the resignation.

(2) Nominations by parties holding primary elections. For any party holding primary elections for nominating candidates for the ensuing general election, nominations for unexpired terms shall be made in accordance with the following provisions.

(i) If the vacancy occurs more than five days prior to the regular deadline for filing an application for a place on the general primary ballot, as provided in Section 190 of this Code,² nomination for the unexpired term shall be made by primary election in the same manner and under the same rules applicable to nominations for full terms.

(ii) If the vacancy occurs on or after the fifth day preceding the regular filing deadline and more than thirty days before the day of the general primary election, nomination for the unexpired term shall be made by primary election, and candidates shall have until the end of the twenty-fifth day preceding the day of the general primary in which to file applications for a place on the primary ballot. The application must be received and filed in the office of the proper chairman before the deadline, and applications mailed but not actually received before the deadline shall not be accepted for filing. Except as otherwise provided herein, the application shall conform to the requirements of Section 190 of this Code. A candidate for an office for which a fixed filing fee is prescribed by this Code shall pay the fee within three days after he files his application for a place on the ballot; provided, however, that in every case the payment must be received by the chairman before the deadline for filing applications under this paragraph. A candidate for an office which is subject to assessment by the county executive committee shall accompany his application with the deposit required by Section 185a of this Code.³ The county executive committee shall fix the amount of the assessment and the county chairman shall mail to each candidate a statement of the amount assessed against him, and the candidate shall pay the balance of the assessment within five days after the date on which the statement is mailed. Immediately following the deadline for filing applications, the state chairman shall certify to the county chairman the names of candidates, if any, who have filed applications with him and have paid their filing fee in accordance with this paragraph. Whenever the name of more than one candidate for the same office is to be placed on the ballot pursuant to the provisions of this paragraph, the county chairman shall call a meeting of the primary com-

mittee, in time to allow printing of the ballots before commencement of absentee voting in the general primary, and the primary committee shall determine by lot, in open meeting, the order in which the names of the candidates shall be printed on the ballot. If there is not more than one candidate for the same office, the county chairman shall be authorized to make any necessary changes in the ballot as previously made up by the primary committee.

(iii) If the vacancy occurs on or after the thirtieth day preceding the day of the general primary and more than twenty days before the day of the general election, the state executive committee in the case of state offices, the appropriate district executive committee in the case of district offices, and the county executive committee in the case of county and precinct offices, shall have the power to name a nominee for such office, and a nomination shall not be made by any other method; provided, however, that in any case where a district committee empowered to name a nominee is unable to agree upon a candidate due to a tie vote and fails to do so, the state executive committee of that political party may name a candidate for such office and certify the name of the nominee to the proper officer.

(3) Nominations by parties not holding primary elections. For any party which is authorized to make nominations by party conventions, as provided in this Code, a nomination for the unexpired term shall be made at the appropriate party convention having power to make nominations for the particular office if the vacancy occurs more than two days prior to the date on which the convention is held. If the vacancy occurs on or after the second day preceding the convention and more than twenty days before the day of the general election, the appropriate executive committee of the party shall have the power to name a nominee, and a nomination shall not be made by any other method.

(4) Nominations by executive committees. If the vacancy occurs more than forty days before the day of the general election, the nomination must be made and certified to the proper officer not later than thirty-five days before the day of the general election, except that where a district committee has been unable to agree upon a nominee for a district office due to a tie vote, a nomination by the state executive committee shall be made and certified not later than twenty days before the day of the general election. For subsequent vacancies, the nomination shall be made and certified not later than twenty days before the day of the general election. Nominations for state offices and for district offices (including districts composed of only one county or part of one county) shall be certified to the Secretary of State, and nominations for county and precinct offices shall be certified to the county clerk. The certificate of nomination shall be signed and acknowledged by the chairman of the committee making the nomination, and shall set forth the name of the nominee, the office for which he was nominated, and when, where, by whom, and how the nomination was made.

(5) Independent and nonpartisan candidates. If the vacancy occurs on or before the date of the second primary election, applications of independent or nonpartisan candidates must be filed in accordance with the provisions of Section 227 of this Code,⁴ not later than thirty days after the second primary election day. If the vacancy occurs after the second primary election day, and more than twenty days before the day of the general election, independent or nonpartisan candidates may file applications in the manner provided in Section 227, except that the application shall be filed not later than thirty-five days before the day

of the general election if the vacancy occurred more than forty days before the day of the general election, and for subsequent vacancies, the application shall be filed not later than twenty days before the day of the general election. No person shall sign an application prior to the occurrence of the vacancy, and any signature before that time shall be void.

(6) Write-in candidates. If the vacancy occurs more than twenty days before the day of the general election, the title of the office shall be printed on the ballot for the general election regardless of whether any nominations have been made for the unexpired term, and each voter may write in the name of the candidate of his choice.

(7) When election not to be held. If a vacancy occurs within twenty days before the day of the general election, no one shall be elected to the unexpired term at that election, and the person appointed to fill the vacancy shall continue to hold office until the next succeeding general election and until a successor has been elected and has qualified. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 190a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 88.

¹ Article 12.02.

² Article 13.12.

³ Article 13.07a.

⁴ Article 13.50.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.13. Certificates to county committee

At the meeting of the county executive committee provided for in Section 195 of this Code,¹ the county chairman shall present to the committee the certificates of the chairman of the state committee, showing the names of all persons whose names are to appear on the official ballot as candidates for state-wide offices and the office of Justice of the Court of Civil Appeals. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 87.

¹ Article 13.17.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.15. Filing fees for certain offices

Candidates for United States Senator and all those who are candidates for state offices to be voted upon by the qualified voters of the whole state shall pay to the chairman of the state executive committee one thousand dollars. Candidates for Congressman-at-large or for Justice of the Court of Civil Appeals shall pay to the chairman of the state executive committee five per cent of one year's salary. A candidate who is required to pay a filing fee as herein provided shall not be required to pay any other sum to any other person or committee to have his name placed on the ballot as such candidate. Payment of the fee herein required must be made within three days after the candidate files his application for a place on the ballot, and the name of no person who is required to pay a filing fee to the chairman of the state executive committee shall be placed on the ballot unless he has paid the fee in accordance with these provisions. It shall be sufficient to meet the requirement of these provisions to mail a money order, a certified check, or a good personal check to the chairman of the state executive committee by registered or certified letter within the time herein stated, as shown by the postmark on the letter, but it shall not be sufficient to make the payment by any other type of mail unless it is delivered within the prescribed time. As amended Acts 1955, 54th Leg., p.

1295, ch. 513, § 2; Acts 1961, 57th Leg., p. 976, ch. 424, § 2; Acts 1963, 58th Leg., p. 1017, ch. 424, § 89.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.18. County executive committees

There shall be for each political party required by law to hold primary elections for nomination of its candidates, a county executive committee in each county, to be composed of a county chairman and one member from each election precinct in such county. Each committeeman shall be chairman of his election precinct. The county chairman and the committeemen shall be elected by majority vote at the primary elections every two years, the county chairman by the qualified voters of the whole county, and the precinct chairman by the qualified voters of their respective election precincts. If in any race no candidate receives a majority of the votes at the general primary, a runoff election for the office shall be held at the second primary election. The county chairman and the precinct chairmen shall assume the duties of their respective offices on Saturday following the runoff primary immediately after the committee has declared the results of the runoff primary election. The list of precinct chairmen and the county chairman so elected shall be certified by the chairman of the county committee to the county clerk, along with the nominees of the party.

No person shall be permitted to hold a proxy or vote a proxy at meetings of the county executive committee. Any vacancy in the office of county chairman or precinct chairman shall be filled by a majority vote of the committee. Each precinct chairman shall be a resident of the precinct which he represents, and the office shall become vacant if he changes his residence to a place outside the precinct. Where the boundaries of election precincts are changed by the commissioners court, existing precincts altered, new precincts formed, or former precincts abolished, if only one previously elected or appointed precinct chairman resides within a precinct as so changed, he shall continue in office as chairman of that precinct until his successor is elected and assumes office. If more than one precinct chairman resides within a precinct as so changed, or if none resides therein, the office shall become vacant and the vacancy shall be filled as other vacancies. Changes in precinct boundaries made by the commissioners court shall not become effective to alter or affect the membership of the county executive committee until the first day of February following the entry of the order making the change.

The county executive committee may name a secretary, who may be either a member of the committee or such other person as the committee may select, and the secretary is hereby authorized to receive applications for a place on the primary ballot and when so received the application shall be officially filed. The combined compensation allowed the secretary and the chairman for their services shall in no case exceed five per cent of the amount actually spent for necessary expenses in holding the primary election for that year, exclusive of the compensation allowed to the chairman and secretary.

The funds received by the county executive committee from fees and assessments paid by candidates shall constitute the primary fund, and any surplus remaining in the fund after payment of the necessary expenses for holding the primary elections for that year shall be distributed pro-rata to the candidates not later than the first day of November of the year in which the primaries were held. The county chairman shall make or have made a detailed financial report or audit of all moneys received, expended, and

on hand, and such audit or financial statement shall be sworn to by the county chairman as to its accuracy and shall be filed with the county clerk not later than the first day of November of that year. Such audit or financial statement shall be open to public inspection. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 90.

Effective 90 days after May 24, 1963, date of adjournment.

County and precinct conventions, see art. 13, 34.

Art. 13.18a. District executive committees

For a district composed of more than one county, the county chairman of each county within the district shall be ex officio a member of the district executive committee for each such district of which his county is a part, and the district committee thus formed shall elect its own chairman. Whenever a vacancy occurs in a district office or in the nomination for a district office and the district committee is empowered to name a nominee or a substitute nominee, or whenever for any other reason it becomes necessary for the district committee to meet and organize, the chairman of the state executive committee shall call a meeting of the district committee by giving notice to each member of the time and place where such meeting will be held and of the purpose of the meeting. The state chairman shall designate one member as temporary chairman, who shall call the meeting to order and preside until the committee elects its own chairman. The chairman elected by the committee shall continue to act as chairman during the remainder of that term of office, and shall call any subsequent meetings of the committee which are held during that time.

For a district composed of only one county or part of one county, the county executive committee shall constitute the district executive committee for that district, and the county chairman shall be chairman of the district executive committee. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 196a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 91.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.21. Lists of voters

The county tax collector shall deliver to the chairman of the county executive committee of each political party, for its use in primary elections, original and supplemental lists of the qualified voters of each precinct in the county, and such chairman shall place the same for reference in the hands of the election officers of each election precinct before the polls are open. No primary election shall be legal unless such lists are obtained and used for reference during the election. Opposite the name of every voter on said list shall be stamped or written with pen and ink, when his vote is cast, the words "primary-voted," with the date of such primary under the same. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 30.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.23. Ballots delivered to county clerk

Immediately after the counting of the ballots is completed, and not later than twenty-four hours after closing of the polls, the presiding judge of each election precinct shall make returns to the county clerk of the ballot box containing ballots voted, in the manner prescribed in Section 114 of this Code; ¹ and all other provisions of Section 114 shall also apply

to primary elections. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 92.

¹ Article 8.32.

Effective 90 days after May 24, 1963, date of adjournment.

Ballots and copy of returns delivered to county clerk, see art. 8.32.

Art. 13.24. Returns and canvass

Immediately upon completion of counting of the ballots, which must be completed in time for delivery of the returns not later than twenty-four hours after the closing of the polls, the presiding judge of each election precinct shall notify the chairman of the county executive committee either personally or by telephone of the results. He shall immediately thereafter make out returns of the same in the manner prescribed in Section 111 of this Code¹ and shall immediately, and not later than twenty-four hours after the closing of the polls, make the proper distribution of the returns and other records of the election as provided in Section 111b of this Code.²

Upon receiving returns from each election precinct in the county, the chairman of the county executive committee shall order the members of the county executive committee to convene at the county seat of the county on the following Tuesday succeeding the day of such primary election, and the returns shall be opened by the committee in executive session and shall be canvassed by them. The results recording the state of the polls in each precinct shall be entered in the book provided for in Section 116 of this Code by the county clerk, and the chairman of the county executive committee shall furnish to the county clerk the necessary information for compliance with this provision. Upon relation of the county chairman, the county attorney shall immediately institute mandamus proceedings in the proper court to compel delinquent returning officers to make proper returns as required by law, and it shall be the duty of the county chairman and county clerk to notify the county attorney of the delinquency. As amended Acts 1959, 56th Leg., p. 221, ch. 130, § 1; Acts 1959, 56th Leg., p. 335, ch. 165, § 6; Acts 1963, 58th Leg., p. 1017, ch. 424, § 93.

¹ Article 8.29.

² Article 8.29b.

Effective 90 days after May 24, 1963, date of adjournment.

Commissioners to open returns, see art. 8.34.

Art. 13.25. Canvass by committee

At the meeting of the county executive committee provided for in the preceding section, returns from the election precincts of the county shall be canvassed by the committee in accordance with the provisions of this section. Such canvass shall include an actual checking and comparison of the poll lists with the tally lists and return sheets, and a mere tabulation of votes as 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 within seven days after the date of canvass, setting out any alleged error in the primary election returns as certified by the chairman of the committee, the 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. When the votes have been canvassed in accordance with the foregoing provisions and the result thereof declared by the committee, the chairman of the 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 committee after the general primary, in 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 1963, 58th Leg., p. 1017, ch. 424, § 94.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.26a. Withdrawal of candidate in second primary

Any candidate whose name is to appear on a second primary ballot may withdraw as a candidate by filing with the chairman of the state executive committee in the case of a state or district office, and with the chairman of the county executive committee in the case of a county or precinct office, not later than twenty days prior to the day of the election, a signed request, duly acknowledged by him, that his name not be printed on the ballot at such election. The name of the withdrawing candidate shall not be printed on the ballot and no votes shall be cast or counted for him, and only the name of the other of the two highest candidates shall be printed on the ballot. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 204a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 95.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.27. Canvass by state executive committee

The chairman of the executive committee for each county shall immediately prepare, within twenty-four hours after the vote in the primary election has been canvassed by the county executive committee as provided in Section 202 of this Code,¹ a tabulated statement of the votes cast in his county for each candidate for each nomination for a state, district, county or precinct office, and of those cast for county chairman and precinct chairmen, and mail such statement as to a state or district office, in a sealed envelope by registered or certified letter to the chairman of the state executive committee, who shall present the same to the state executive committee as herein provided.

On the second Tuesday following the day of the general primary in May, the state executive committee shall meet at a place selected at the meeting held on the second Monday in March preceding, and shall open and canvass the returns of the election as to candidates for state and district offices, as certified by the various county chairmen, and shall prepare a tabulated statement showing the number of votes received by each such candidate in each county, which statement shall be approved by the state committee and certified by its chairman. In the event any candidate for a district office received in the general primary the necessary vote to nominate, within twenty days after the canvass the chairman of the state executive committee shall certify the name of such candidate to the Secretary of State, to be printed upon the official ballot for the general election as a candidate of the party for the office to which he was nominated. If such returns show that for any state or district office no candidate received a majority of all the votes cast for all candidates for such office, the committee shall prepare a list of the two candidates receiving the highest vote for each office for which no candidate received a majority and shall certify same to the county chairmen of the several counties to be placed upon the official ballot as candidates for office at the second primary election to be held on the first Saturday in June thereafter.

On the third Saturday in June of each election year, the state executive committee shall meet at a place selected at the meeting held on the second Tuesday following the day of the general primary, and shall open and canvass the returns of the second primary election as to candidates for state and district offices as certified by the various county chairmen to the state chairman, and shall prepare a tabulated statement showing the number of votes received by each such candidate in each county, which statement shall be approved by the state committee and certified by its chairman. Within twenty days thereafter, the chairman of the state executive committee shall certify to the Secretary of State, the names of the district candidates receiving the highest vote, to be placed on the general election ballot.

Within twenty days after the date of each canvass, the chairman of the state executive committee shall forward a copy of the tabulated statement prepared by the committee to the Secretary of State, who shall file such statement in the records of his office. As amended Acts 1959, 56th Leg., p. 335, ch. 165, § 7; Acts 1963, 58th Leg., p. 1017, ch. 424, § 96.

¹ Article 13.24.

Effective 90 days after May 24, 1963, date of adjournment. County and precinct conventions, see art. 13.34.

Art. 13.28. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(a).

Eff. 90 days after May 24, 1963, date of adjournment

See, now arts. 8.32, 13.23.

Art. 13.30. Contest of primary nominations

Altering or destroying ballots, see Vernon's Ann.P.C. art. 244.

Art. 13.33. Referendum on platform demands

No political party in this state which is required to nominate its candidates by primary election shall, in convention assembled, place in the platform or resolutions of the party any demand for specific legislation on any subject, unless the demand for such specific legislation shall have been submitted to a direct vote at the general primary election of such party next preceding the state convention and shall have been endorsed by a majority of all the votes cast in such primary election. The state executive committee may submit, at the general primary election, any demand for specific legislation on any subject, or any other matter, which may be proposed for inclusion in the platform or resolutions of the party, and upon petition of five per cent of the voters of the party, as shown by the total number of votes cast for Governor at the last preceding general primary, the state executive committee shall submit any such question or questions to the voters at the next general primary. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 97.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.34. County and Precinct Conventions

(a) On the first Saturday after the general primary election day in each election year, there shall be held in each county a county convention of each party to be composed of one delegate from each election precinct in such county for each twenty-five votes, or major fraction thereof, cast for the party's candidate for Governor in such precinct

at the last preceding general election, which delegate or delegates shall be elected by the qualified members of the party in each precinct at precinct conventions to be held on the general primary election day. In case at the preceding general election there were cast for such candidate for Governor less than twenty-five votes in any precinct, then all such precincts shall elect one delegate. Where the boundaries of an election precinct have been changed or a new precinct formed since the last general election, the county executive committee shall allocate to each such precinct the number of delegates to be elected in that precinct, and may use any fair and reasonable method for making the allocation.

(b) The county convention shall elect one delegate for each three hundred votes, or major fraction thereof, cast for the party's candidate for Governor in such county at the last preceding general election. The delegates so elected shall be delegates for all state conventions held throughout the remainder of the year and such of them as may attend such state conventions shall cast the votes for their respective counties in such conventions.

(c) The qualified members of the party in each election precinct of the county shall assemble on the date named and shall be called to order by the precinct chairman, or in his absence by any qualified member of the party presiding within the precinct. Before transacting any business, the precinct chairman shall cause to be made a list of all qualified members of the party present. The name of no person shall be entered upon the list nor shall he be permitted to vote, be present at, or participate in the business of the convention until it is made to appear that he is a qualified voter in the precinct, from a certified list of the qualified voters, the same as is required in conducting a general election, and that he has qualified as a member of the party as provided in Section 179a of this Code.¹ The precinct convention shall elect from among those present and qualified a permanent chairman and such other officers as may be necessary to conduct its business. The chairman of the convention shall possess all the power and authority that is given to election judges by the provisions of this Code. After the convention is organized it shall elect its delegates to the county convention and transact such other business as may properly come before it. The officers of the precinct convention shall keep a written record of its proceedings, including a list of delegates elected to the county convention, which shall constitute the returns from the convention. The record, and a copy thereof, shall be signed officially, sealed up and safely transmitted by the permanent chairman of the precinct convention within three days after the precinct convention to the county clerk of the county, who shall affix his file mark thereto and who shall promptly deliver the original copy of such return to the chairman of the county executive committee, and the return filed with the county clerk shall be open to public inspection during the regular office hours.

(d) The chairman of the county executive committee shall deliver the list of delegates named by the precinct conventions in the county to the county convention, and these lists shall constitute the temporary roll of those selected as delegates to the county convention and only delegates on such temporary roll shall be permitted to vote in the temporary organization of the county convention. No person shall be permitted to hold a proxy or vote a proxy at the county convention. The county convention shall elect a permanent chairman and such other officers as may be necessary to conduct its business. Immediately upon the adjournment of each such county convention the permanent chairman thereof shall make out a certified list of the delegates chosen, together with a copy of all resolu-

tions adopted by the county convention, and shall sign the same, the permanent secretary of such convention attesting his signature, and within five days after the county convention shall forward such certified list, resolutions and copies of each thereof by sealed registered or certified letter to the Secretary of State in Austin, Texas, who shall affix his file mark thereon and who shall deliver the originals thereof to the chairman of the state executive committee, prior to any state convention. The state chairman shall call a meeting of the state executive committee, which shall, at the meeting, prepare a complete list of the delegates elected to the state conventions from each county as certified by the Secretary of State. The chairman shall then present the certified list to any state convention, at any time prior to its beginning, and such lists shall constitute the temporary roll of those selected as delegates to such conventions, and only delegates on such temporary roll shall be permitted to vote in the temporary organization of any such state convention. No person shall be permitted to hold a proxy or vote a proxy at a state convention from more than one county.

(e) The county executive committee in its meeting on the third Monday in March preceding the general primary, provided for in Section 195 of this Code, or, upon its failure to act, the county chairman, shall determine the hour and place at which the precinct conventions shall be held on primary election day. The time for convening of the precinct convention in each precinct must be set between the hours of two o'clock p. m. and nine o'clock p. m. The county chairman shall then be required to post a copy of this order on a bulletin board at the county courthouse and file a copy of the same in the office of the county clerk, where it shall be open to public inspection. This notice shall be posted and filed by the county chairman at least ten days prior to the holding of the precinct conventions. Also at this meeting the county executive committee, or, upon its failure to act, the county chairman, shall decide the hour and place at which the county convention shall be held on the first Saturday after primary election day, and the county chairman shall post this order on the bulletin board at the county courthouse and also file a copy of this notice with the county clerk, at least ten days prior to the date of the county convention. Should the county chairman fail to post such orders and file such notices, then any member of the county executive committee may post such orders and file such notices and such shall constitute the orders and notices required herein. Should more than one member of the county executive committee post such orders and file such notices, then the first posting and filing in point of time shall prevail.

(f) Representatives of newspapers, wire news services, and radio and television stations shall have the right to attend the precinct conventions, the county conventions, and the state conventions for the purpose of reporting the proceedings thereof.

(g) All nominees for the State Legislature or the United States Congress and all State Representatives, State Senators and members of Congress shall be entitled to admission to the state conventions of their party, but unless elected as a delegate they shall not be entitled to vote or otherwise participate in the affairs of the convention.

(h) No person shall be ineligible to serve as a delegate to any county, state or national convention of any political party by reason of his holding any public office. As amended Acts 1957, 55th Leg., p. 430, ch. 206, § 1; Acts 1959, 56th Leg., p. 335, ch. 165, § 8; Acts 1962, 57th 3rd C.S., Leg., p. 157, ch. 53, § 1; Acts 1963, 58th Leg., p. 1017, ch. 424, § 98.

¹ Article 13.01a.

Effective 90 days after May 24, 1963, date of adjournment.

Canvass by state executive committee, see art. 13.27.

Art. 13.34a

Elec. Code

Art. 13.34a. Refusing employee privilege of attending precinct convention

It shall be unlawful for any employer to refuse to an employee the privilege of attending a precinct convention of a political party with which the employee is affiliated or is eligible to affiliate. An employer shall not be required to compensate an employee for the time the employee is absent for the purpose of attending a precinct convention, but the employee shall not be subjected to any other penalty or deduction of wages because of the exercise of such privilege. Any employer who violates any provision of this section shall be fined not to exceed five hundred dollars. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 212a added Acts 1963, 58th Leg., p. 1017, ch. 424, § 99.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.36. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(a).

Eff. 90 days after May 24, 1963, date of adjournment

Prior to repeal, the article was amended by Acts 1959, 56th Leg., p. 335, ch. 165, § 10. See, now, arts. 13.27, 13.34.

Art. 13.38. State convention

The state convention to announce a platform of principles and to announce nominations for Governor and other state offices, held by a political party making nominations by primary election, shall meet on the third Tuesday in September of each even-numbered year at such place as may be determined by the state executive committee as provided in Section 213 of this Code,¹ and shall remain in session from day to day until all nominations are announced and the work of the convention is finished. The convention shall elect a chairman and a vice-chairman of the state executive committee, one of whom shall be a man and the other a woman, and sixty-two members thereof, two from each senatorial district of the state, one of whom shall be a man and the other a woman, the members of the committee to be those who shall be recommended by the delegates representing the counties composing the senatorial districts respectively, each county voting its convention strength, each of whom shall hold office until his successor is elected; and, in case of a vacancy, a majority of the members of the committee shall fill the vacancy by electing some eligible person thereto, but such person shall be of the same sex as the vacating member and from the same senatorial district.

At any meeting of the state executive committee a person cannot hold a proxy or participate in such meeting unless he is a resident of the same senatorial district as the member giving the proxy, and no person shall be permitted to hold or vote more than one proxy. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 100.

¹ Article 13.35.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.43. Contest of primary

Altering or destroying ballots, see Vernon's Ann.P.C. art. 244.

Art. 13.43a. Contests for office of precinct chairman or county chairman

Notwithstanding any other provision of this Code, and particularly notwithstanding Section 220¹ thereof, the district courts of this state are vested hereby with jurisdiction to hear and determine election contests relative to the party offices of precinct chairman and county chairman, the same as though it were a contest for a place on a party ticket for public office. Acts 1951, 52nd Leg., p. 1097, ch. 492, art. 220a added Acts 1957, 55th Leg., p. 545, ch. 254, § 1 as amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 101.

¹ Article 13.43.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.45. Nominations by parties under 200,000 votes

Any political party whose nominee for Governor in the last preceding general election received less than two hundred thousand votes, or any new party, or any previously existing party which did not have a nominee for Governor in the last preceding general election, may nominate candidates for the general election:

(1) by primary elections held in accordance with the rules provided in this Code for the primary elections of parties whose candidate for Governor received two hundred thousand or more votes at the last general election; or

(2) by nominating such candidates for the general election in conventions as provided in Sections 224 and 225 of this Code;¹ provided, however, that if the convention system be used, then the party must comply with the following qualifications for nomination:

(a) Such party must hold a state convention at the time and under conditions prescribed by law, composed of delegates from county conventions held in accordance with the law.

(b) It shall not be necessary that county conventions whose delegates comprise the state convention be held in all counties of the state, but such conventions must be held in not less than twenty counties comprising in the aggregate not less than twenty per cent of the population of the state.

(c) The chairman of the state executive committee of the party shall certify under oath to the Secretary of State that the conditions of this section have been complied with. As amended Acts 1959, 56th Leg., p. 335, ch. 165, § 11; Acts 1963, 58th Leg., p. 1017, ch. 424, § 102.

¹ Articles 13.47 and 13.48.

Effective 90 days after May 24, 1963, date of adjournment.

Filing application for nomination by convention, see art. 13.47a.

Art. 13.46. State committee to determine mode of nomination

The state committee of a political party which is not required by law to make nominations by primary election shall decide, and by resolution declare, whether the party nominations will be made by conventions or by primary elections, and shall certify their decision to the Secretary of State not later than twelve months before the general election. As amended Acts 1959, 56th Leg., p. 335, ch. 165, § 12; Acts 1963, 58th Leg., p. 1017, ch. 424, § 102.

Effective 90 days after May 24, 1963, date of adjournment.

Filing application for nomination by convention or affidavit of intent to run, see art. 13.47a.

Art. 13.47

Elec. Code

Art. 13.47. Conventions of parties not holding primaries

Political parties which are not required by law to make nominations by primary election may make nominations by conventions as provided herein.

Nominations for state-wide offices shall be made at a state convention, which shall be held on the Monday preceding the last Tuesday in May of the election year, and which shall be composed of delegates selected in the various counties at county conventions held on the second Saturday in May. The county conventions shall be composed of delegates from the general election precincts in such counties elected therein at precinct conventions, held in such precincts on the first Saturday in May.

Nominations for district offices of districts composed of more than one county shall be made at district conventions held on the Saturday preceding the last Tuesday in May of the election year, composed of delegates elected thereto from the counties composing the district, at the county conventions held on the second Saturday in May.

Nominations for county and precinct offices and for district offices of districts composed of only one county or part of one county shall be made at the county conventions held on the second Saturday in May. As amended Acts 1959, 56th Leg., p. 335, ch. 165, § 13; Acts 1963, 58th Leg., p. 1017, ch. 424, § 102.

Effective 90 days after May 24, 1963, date of adjournment.

Filing application for nomination by convention, see art. 13.47a.

Art. 13.47a. Application for nomination; affidavit of intent to run; filing

Consent to run, see art. 13.52.

Independent candidates at county, city or town election, see art. 13.53.

Mode of nominating candidate, see art. 13.46.

Nomination by political party, see art. 13.45.

Nominations for district offices, see art. 13.47.

Non-partisan and independent candidates, see art. 13.50.

Request to go on ballot, see art. 13.12.

Art. 13.48. Nominations certified

Nominations so made by a state convention shall be certified by the chairman of the state executive committee of such party to the Secretary of State. Nominations made by a district convention shall be certified by the chairman of the district executive committee to the Secretary of State. Nominations made by a county convention for county and precinct offices shall be certified by the chairman of the county executive committee to the county clerk, and nominations for district offices shall be certified by said chairman to the Secretary of State. Nominations by party conventions must be certified to the proper officer within twenty days after the date of the convention at which the nomination was made. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 103.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.50. Non-partisan and independent candidates

The name of a nonpartisan or independent candidate may be printed on the official ballot in the column for independent candidates, after a written application signed by qualified voters addressed to the proper

officer, as herein provided, and delivered to him within thirty days after the second primary election day, as follows:

If for an office to be voted for throughout the state, the application shall be signed by one per cent of the entire vote of the state cast for Governor at the last preceding general election, and shall be addressed to the Secretary of State.

If for a district office in a district composed of more than one county, the application shall be signed by three per cent of the entire vote cast for Governor in such district at the last preceding general election, and shall be addressed to the Secretary of State.

If for a district office in a district composed of only one county or part of one county, the application shall be signed by five per cent of the entire vote cast for Governor in such district at the last preceding general election, and shall be addressed to the Secretary of State.

If for a county office, the application shall be signed by five per cent of the entire vote cast for Governor in such county at the last preceding general election, and shall be addressed to the county judge.

If for a precinct office, the application shall be signed by five per cent of the entire vote cast for Governor in such precinct at the last preceding general election, and shall be addressed to the county judge.

Notwithstanding the foregoing provisions, the number of signatures required on an application for any district, county, or precinct office need not exceed five hundred.

No application shall contain the name of more than one candidate. No person shall sign the application of more than one candidate for the same office; and if any person signs the application of more than one candidate for the same office, the signature shall be void as to all such applications. No person shall sign such application unless he is a qualified voter, and no person who has voted at either the general primary election or the runoff primary election of any party shall sign an application in favor of anyone for an office for which a nomination was made at either such primary election.

The application shall contain the following information with respect to each person signing it: his address and the number of his poll tax receipt or exemption certificate and the county of issuance; or if he is exempt from payment of a poll tax and not required to obtain an exemption certificate, the application shall so state.

Any person signing the application of an independent candidate may withdraw and annul his signature by delivering to the candidate and to the officer with whom the application is filed (or is to be filed, if not then filed), his written request, signed and duly acknowledged by him, that his signature be cancelled and annulled. The request must be delivered before the application is acted on, and not later than the day preceding the last day for filing the application. Upon such withdrawal, the person shall be free to sign the application of another candidate for the same office. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 104.

Effective 90 days after May 24, 1963, date of adjournment. Filing affidavit of intent to run, see art. 13.47a.

Nomination and election to fill unexpired term, independent and nonpartisan candidates, see art. 13.12a(5).

Art. 13.51. Oath to application

To every citizen who signs such application, there shall be administered the following oath, which shall be reduced to writing and attached to such application: "I know the contents of the foregoing application; I have not participated in the general primary election or the runoff primary election of any party which has nominated, at either such election, a candidate for the office for which I desire _____ (here insert the name of the candidate) to be a candidate; I am a qualified voter at the next general election under the Constitution and laws in force and have signed the above application of my own free will." One certificate of the officer before whom the oath is taken may be so made as to apply to all to whom it was administered. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 104.

¹ Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.52. Consent to run

Upon receipt of an application which conforms to the above requirements, the Secretary of State shall issue his instruction to the county clerks of the state or of the district, as the case may require, and the county judge shall issue his instruction to the county clerk of the county, directing that the name of the candidate in whose favor the application is made shall be printed on the official ballot in the independent column under the title of the office for which he is a candidate; provided, that any candidate who is required by Section 224a of this Code¹ to file a statement of intent to become an independent candidate must have filed such statement in compliance with the provisions of that section, and any candidate not required to file such statement must file with the Secretary of State or the county judge, as the case may be, his written consent to become a candidate, within thirty days after the second primary election day. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 104.

¹ Article 13.47a.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 13.53. Independent candidates at city or town election

Independent candidates for office at a city or town election may have their names printed upon the official ballot on application signed by qualified voters addressed to the mayor, such application being in the same form and subject to the same requirements herein prescribed for application to be made to the Secretary of State or the county judge; provided, that in city elections it shall be necessary that the application be signed by qualified voters equaling five per cent of the entire vote cast for mayor at the last municipal election, or by twenty-five qualified voters, whichever is the lesser number; and the application and the candidate's written¹ consent must be filed at least thirty days prior to the election day. Provided further, that if the office is one to which two or more persons are to be elected, the application may be for as many candidates as there are persons to be elected to that office, and a voter may sign applications of candidates for that office in the number that is to be elected; but if he signs the applications of more than the number to be elected, the signature shall be void as to all such applications. And provided further, in elections for a city or town office, it shall not be necessary that independent candidates be nominated, but anyone otherwise qualified may have his name printed upon the official ballot for a particular office by filing his sworn application with the mayor at least thirty days prior to the election

day and by paying such filing fees as may be required by statute or by charter provision. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 104.

¹ So in enrolled bill.

Effective 90 days after May 24, 1963, date Filing affidavit of intent to run, see art. of adjournment. 13.47a.

Art. 13.56. Declination or death of nominee; filling vacancy in nomination

(a) A nominee of a political party may decline and annul his nomination by delivering to the officer with whom the certificate of his nomination is filed and to the chairman of the executive committee having the power to fill a vacancy in such nomination, not later than twenty days before the day of the election, a declaration in writing, signed by him and acknowledged before some officer authorized to take acknowledgments.

(b) Upon declination of a nomination, or in case of death of a nominee not later than twenty days before the day of the election, the executive committee of the party for the state, district, or county, as the office to be nominated may require, may nominate a candidate to supply the vacancy. A certificate of such nomination, signed and duly acknowledged by the chairman of the executive committee, must be filed with the officer with whom the certificate of the original nomination was filed not later than twenty days before election day, which certificate shall set forth the name of the original nominee, the cause of the vacancy, the name of the new nominee, the office for which he was nominated, and when, where, by whom, and how he was nominated. The officer with whom the substitute nomination is filed shall immediately take the necessary action to cause the name of the new nominee to be placed on the ballot.

(c) In any case where a district committee is empowered to name a nominee and is unable to agree upon a candidate due to a tie vote and fails to do so prior to twenty days before the election, the state executive committee may name a candidate for such office and certify the name to the proper officer to have the name printed on the official ballot for the general election; provided, however, that the certification must be filed not later than twenty days before election day.

(d) An independent candidate may withdraw his candidacy and cause his name to be kept off the ballot by delivering to the officer with whom the application requesting his name to be placed on the ballot was filed, not later than twenty days before election day, a declaration in writing, signed and duly acknowledged by him, whereupon the officer with whom the declaration is filed shall immediately take the necessary action to cause the candidate's name to be removed from the ballot.

(e) If a party nominee dies or declines the nomination and no one is nominated to fill the vacancy, his name shall be printed on the ballot and the procedure set out in Section 104 of this Code ¹ shall be followed.

(f) If an independent candidate dies more than five days before the deadline for filing by independent candidates in that race, his name shall not be printed on the ballot. If he dies after that date, his name shall be printed on the ballot and the procedure set out in Section 104 of this Code shall be followed. As amended Acts 1963, 56th Leg., p. 1017, ch. 424, § 105.

¹ Article 8.22.

Effective 90 days after May 24, 1963, date Death of candidate before election, see art. of adjournment. 8.22.

Elec. Code

Art. 13.58. National Convention

Parties entitled to nominate presidential elector candidates, see art. 11.01a.

CHAPTER FOURTEEN—LIMITING CAMPAIGN EXPENDITURES**Art. 14.01. Definitions**

As used in this chapter—

The word "candidate" shall mean any person who has announced to any other person or to the public that he is a candidate for the nomination for or the election to any public office which is required by law to be determined by an election. The words "county office" shall mean any office of the federal, state, or county government which is to be filled by the choice of the voters residing in only one county or less than one county. The words "district office" shall mean any office of the federal or state government, less than state-wide, which is to be filled by the choice of the voters residing in more than one county. The words "state office" shall mean any office of the federal or state government which is to be filled by the choice of the voters of the entire state, except presidential electors. The words "municipal office" shall mean any office of an incorporated city, town or village. The words "office of a political subdivision" shall mean any office of any political subdivision of this state which is organized as a body politic and has a governing board or body, except counties, cities, towns and villages, and includes without limitation the elective offices of school districts of every type and all districts and political subdivisions created under authority of Article III, Section 52 or Article XVI, Section 59 of the Constitution of Texas. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 106.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 14.02. Appointing Manager

Assistant campaign manager, appointment of watcher for election precinct, see art. 3.05.

Art. 14.07. Corporations not to contribute

(a) Except to the extent permitted in Article 213 of the Penal Code of Texas, 1925,¹ no corporation shall give, lend or pay any money or other thing of value, or promise to give, lend, or pay any money or other thing of value, directly or indirectly, to any candidate, campaign manager, assistant campaign manager, or any other person, for the purpose of aiding or defeating the nomination or election of any candidate or of aiding or defeating the approval of any political measure submitted to a vote of the people of this state or any subdivision thereof; provided, however, that nothing in this section or in Article 213 of the Penal Code shall prevent the making of a loan or loans to any candidate for campaign purposes by any corporation which is legally engaged in the business of lending money and which has conducted such business continuously for more than one year prior to the making of such loan, provided the loan is made in due course of business and is not directly or indirectly a contribution. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 108.

¹ Vernon's Ann.P.C. art. 213.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 14.08. Records and Sworn Statement

(f) Such statement shall be accompanied by the following affidavit of the candidate:

"I do solemnly swear that the foregoing statement, filed herewith, is in all things true and correct, and fully shows all gifts and loans of money or other things of value received by me, my campaign manager, or my assistant campaign managers not previously reported in a sworn statement heretofore filed, and all persons making such gifts and loans; and such statement fully shows all previously unreported gifts, loans, and payments made and all debts incurred by me, my campaign manager, or assistant campaign managers or by any other person with my knowledge and consent, in behalf of my candidacy for the nomination for (or election to) the office of _____ before the _____ election (nature of the election to be supplied in the blank) on the date of _____, and that I have neither directly nor indirectly arranged or assented to, encouraged or connived at receiving, borrowing, giving, or lending any money or any thing of value other than as shown in said statement, and that I have not, so far as I know, violated any provision of the laws of Texas governing elections in letter or in spirit." Such statement and oath shall be filed by each candidate for a county office with the county clerk of the county, for a district or state office with the Secretary of State, for a municipal office with the city secretary or city clerk of the municipality, and for an office of a political subdivision with the secretary of the governing board of the political subdivision. A statement shall be considered filed if sent to the proper officer at his post-office address by registered or certified mail from any point in this state before the filing deadline, as shown by the postmark on the letter. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 107.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 14.10. Political advertising

(a) Anything published in a newspaper, magazine or journal, or any pamphlet, handbill or other printed matter, or anything broadcast over a radio or television station or displayed on a billboard, in favor of or in opposition to any candidate for any public office or office of a political party, or in favor of or in opposition to the success of any public officer, or in favor of or in opposition to any political party, or in favor of or in opposition to any proposition submitted to a vote of the people, in consideration of the receipt or promise of money or other thing of value, shall for the purposes of this section be considered as political advertising. All advertisements of marked ballots, advising or suggesting how voters should mark their ballots, shall be included in the meaning of political advertising.

(b) No political advertising shall be accepted for printing, publication, or broadcasting unless a copy of the matter to be printed, published, or broadcast, signed by the individual contracting therefor and showing his full address, is deposited with the printer, publisher or broadcaster accepting the advertising (herein called the "advertising medium"). The advertising medium shall preserve the signed copy for a period of six months after the date of the election to which such advertising relates, and shall permit any interested person to inspect the signed copy at any time during business hours. Such advertising shall be labeled as political advertising in the advertisement as printed, published or broadcast. Any advertis-

Art. 14.10

Elec. Code

ing medium or any officer or agent thereof who violates any provision of this paragraph shall be fined not more than one hundred dollars.

(c) Any advertising medium or any officer or agent thereof who willfully demands or receives for any political advertising any money or other thing of value in excess of the sum due for such service at the regular advertising rates of such medium, or any person who pays or offers to pay for such service any money or other thing of value in excess of the sum due at regular advertising rates, or any person who pays or offers to pay any money or other thing of value for the publication or broadcasting of political advertising except as advertising matter, shall be fined not more than one hundred dollars.

(d) Either party to a violation of this section may be compelled to testify regarding thereto, but shall not be punished for any act regarding which he may have been required to testify. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 109.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 14.12. Partial unconstitutionality and repeals

Acts 1963, 58th Leg., p. 1017, ch. 424, which clarified and revised the laws relating to general, special and primary elections, and which became effective August 23, 1963, provided in § 122:

"Sec. 122. Nonapplicability to elections ordered before effective date.

"This Act shall not apply to any election which was ordered before the date on which the Act takes effect, and all such elections shall be conducted in accordance with the laws in force immediately prior to the effective date of the Act."

TITLE 51—ELEEMOSYNARY INSTITUTIONS

CHAPTER ONE—GENERAL PROVISIONS

Art.

3174b—4. Outpatient clinics; mental hospital; community hospital for research and education in mental illness [New].

Art.

3174b—5. Contracts for medical care and treatment [New].

Art. 3174a. Institutions to be known as Texas state hospitals and special schools

Travis state school independent school district, see art. 2668b.

Art. 3174b. Board for Texas State Hospitals and special schools

Transfer of management and administrative responsibility for Texas Blind, Deaf and Orphan School to Board for

Texas State Hospitals and Special Schools, see art. 3221c.

Art. 3174b—2. Medical treatment and services, power to provide without consent of relatives, etc.

Contracts for medical care and treatment, see art. 3174b—5.

Art. 3174b—4. Outpatient clinics; mental hospital; community hospital for research and education in mental illness

Statement of Purposes and Public Policies

Section 1. It is the sense of the Legislature that the Board for Texas State Hospitals and Special Schools be authorized to establish such outpatient clinics for treating the mentally ill as such Board deems necessary and as funds for their operation are made available; and that a total mental health program be established in a given area of this State which shall consist of the following: (1) An area or community hospital of approximately sixty (60) beds to be used for treating the mentally ill and for research, training, and education in treating mental illness and an outpatient clinic which may be operated in conjunction with the community hospital; the outpatient clinics to be authorized and the community hospital and clinic to be provided for in this Act; and (2) A separate larger mental hospital of approximately five hundred (500) beds.

Authorization for Outpatient Clinics

Sec. 2. The Board for Texas State Hospitals and Special Schools is authorized to establish outpatient clinics for treatment of the mentally ill in such locations as deemed necessary by said Board and as money for their operation shall be made available. The Board shall acquire facilities, provide a staff, make rules and regulations, and make contracts with persons, corporations, and agencies of local, State, and Federal governments as shall be necessary for the establishment and operation of said clinics.

Establishment of Community or Research Hospital

Sec. 3. There shall be constructed, established, and maintained an area or community hospital of approximately sixty (60) beds to be used in

treating the mentally ill and for research, training, and education in mental illness and an outpatient clinic which may be operated in conjunction with the community hospital. Such hospital and clinic shall be located within a city where a recognized medical center is located and operating. The Board for Texas State Hospitals and Special Schools shall designate the city and select a site or sites therein for the location of said community hospital and outpatient clinic. Such site or sites shall be accessible and convenient to the local medical center and shall contain sufficient land served by adequate utilities to meet the requirements of said hospital and outpatient clinic. Said Board shall take title to the land or lands so selected by them in the name of the State of Texas for the use and benefit of said hospital and clinic; provided, that the Attorney General's Department shall first approve the title to the land or lands so selected by the Board.

Location and Construction of Mental Hospital

Sec. 4. The Board for Texas State Hospitals and Special Schools shall select the site for said mental hospital, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants and available medical facilities, and the same shall contain sufficient land and have utilities readily available. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said hospital; provided, however, that the Attorney General's Department shall first approve the title to the land so selected by the Board. There shall be constructed upon said grounds so selected permanent, suitable, substantial, and fireproof buildings sufficient in all respects to be used for the treatment of the mentally ill; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation, and sewage.

Preparation of Plans

Sec. 5. The Board for Texas State Hospitals and Special Schools shall proceed, within the limits of legislative appropriation of funds, to prepare plans and specifications for said buildings; and said Board is authorized to make contracts with such persons, corporations, or agencies of State, local, and Federal governments, and to accept gifts or grants of land as said Board deems proper and necessary to effect the purposes of this Act within the limits of appropriations authorized therefor.

Personnel; Patients

Sec. 6. Upon the completion of the buildings and facilities for either or both of said research hospital or the larger separate mental hospital, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such hospital and clinic and to adequately treat such patients as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit patients to the area or community hospital and shall provide for their care and maintenance under the same applicable laws, rules and regulations as govern the admission and care of mentally ill persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally ill. The outpatient clinic shall be operated under such rules and regulations as the Board may promulgate.

The Board for Texas State Hospitals and Special Schools is hereby authorized, in its discretion, to operate and maintain such hospital and clinic as a part of such other hospital as may be constructed or operated by the Board.

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

Appropriation

Sec. 7. There is hereby appropriated to the Board for Texas State Hospitals and Special Schools such Federal funds as the United States Government may grant for the construction of such buildings, and such other funds as may be given or granted by any State agency, foundation, estate, or individual, and said Board is authorized and directed to obtain and expend such funds as may become available for the programs and facilities authorized by this Act.

Contracts

Sec. 8. In carrying out the research authorized by this Act, the Board may contract with any public or private agency as it deems necessary for such purposes; provided, however, the Board shall not be authorized to make a contract which will expire later than August 31, 1966. Acts 1957, 55th Leg., p. 1280, ch. 427, as amended Acts 1961, 57th Leg., p. 626, ch. 293, § 1; Acts 1963, 58th Leg., p. 336, ch. 128, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Providing state department of health with data on condition and treatment of persons, see art. 4447d.

Contracts for medical care and treatment, see art. 3174b-5.

Art. 3174b-5. Contracts for medical care and treatment

Section 1. The Board for Texas State Hospitals and Special Schools may contract for the support, maintenance, care and treatment of mentally ill and tubercular patients committed to its jurisdiction or for whom the Board is legally responsible. Such contracts may be made between the Board and city, county, and state hospitals, private physicians, licensed nursing homes and hospitals and hospital districts. As amended Acts 1963, 58th Leg., p. 63, ch. 43, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Outpatient clinics, see art. 3174b-4.

Contracts with public schools for education of inmates, see art. 3183e.

Providing state department of health with data on condition and treatment of persons, see art. 4447d.

Medical treatment and services, power to provide without consent of relatives, see art. 3174b-2.

Art. 3183a. State Eleemosynary and State Memorial Park Lands

Board for Lease of Eleemosynary and State Memorial Lands

Section 1. A Board is hereby created to consist of the Commissioner of the General Land Office, one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, and the chairman of the Board of Control, who shall perform the duties hereinafter indicated; the Board shall be known as the "Board for Lease of Eleemosynary and State Memorial Lands." The term "Board" wherever it appears hereafter in this Act shall mean the Board for Lease of Eleemosynary and State Memorial Park Lands. This Board shall keep a complete record in writing of all its proceedings. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 1138, ch. 442, which amended various articles of the Civil Statutes, Penal Code and Election Code by removing the Attorney General as member of various state boards, agen-

cies and commissions, and which provided for the appointment of citizen members thereon to replace the Attorney General, provided in section 18: "The citizen members replacing the Attorney General on the Boards and Commissions amended by this Act shall be reimbursed for their actual meals, lodging and incidental expens-

es when performing their duties as members of their respective Boards at all official meetings of the Board on the same basis as is provided for members of the Legislature serving on Boards, Councils, Committees or Commissions, provided, however, that the travel expenses herein provided shall not be paid but for fifteen (15) meetings of such Boards per year.

Each member shall make out under oath an itemized statement of the number of days engaged in attending official meetings of the Board and the amount of expenses when presenting same for payment."

Lease of lands of state departments, boards and agencies, see art. 5382d.

Art. 3183b—1. Eminent domain by certain nonprofit charitable corporations

Eminent domain, procedure, see art. 3264.

Medical school and dental college, see art. 2603f.

General powers of nonprofit corporations, see Non-Profit Corporation Act, § 2.02, set out in pocket part to Vol. 3A.

Powers, Educational corporations, see art. 1411. Religious and charitable corporations, see art. 1396.

Medical department of University of Texas, see art. 2606b.

Art. 3183e. Contracts with public schools for education of inmates

Contracts for medical care and treatment, see art. 3174b—5.

CHAPTER TWO—STATE HOSPITALS

Art. 3201b—2. Legion Annex of the Kerrville State Hospital [New].

Art. 3201b. Repealed. Acts 1963, 58th Leg., p. 103, ch. 57, § 6. Eff. 90 days after May 24, 1963, date of adjournment

The repealed article was derived from Acts 1953, 53rd Leg., p. 38, ch. 30, § 1 and related to the Legion State Sanatorium and the San Antonio State Tuberculosis

Hospital. For provisions relating to the Legion Annex of the Kerrville State Hospital, see art. 3201b—2.

Art. 3201b—1. Repealed. Acts 1963, 58th Leg., p. 103, ch. 57, § 6. Eff. 90 days after May 24, 1963, date of adjournment

The repealed article was derived from Acts 1955, 54th Leg., p. 1142, ch. 429 and changed the name of the Legion State

Sanatorium to Legion Branch of the San Antonio State Tuberculosis Hospital. See now, art. 3201b—2.

Art. 3201b—2. Legion Annex of the Kerrville State Hospital

Change of name

Section 1. The name of "Legion Branch of the San Antonio State Tuberculosis Hospital," established by House Bill No. 409, Chapter 429, Acts, Fifty-fourth Legislature, Regular Session, 1955,¹ is hereby changed to "Legion Annex of the Kerrville State Hospital."

¹ Art. 3201b—1 (repealed).

Control and management; function

Sec. 2. The Legion Annex of the Kerrville State Hospital shall be under the control and management of the Board for Texas State Hospitals and Special Schools. The function of the Legion Annex of the Kerrville State Hospital will be to provide support, maintenance and treatment under provisions of the Texas Mental Health Code for persons suffering from mental illness.

Appropriations

Sec. 3. All appropriations heretofore made by the Legislature for the use and benefit of the "Legion Branch of the San Antonio State Tuberculosis Hospital" and now effective shall be available for the use and benefit of the Legion Annex of the Kerrville State Hospital.

Contracts

Sec. 4. All contracts heretofore entered into in behalf of "Legion Branch of the San Antonio State Tuberculosis Hospital" are hereby ratified, confirmed and validated for and in behalf of Legion Annex of the Kerrville State Hospital.

Contracts for use of facilities

Sec. 5. The Board for Texas State Hospitals and Special Schools may contract with the Veterans Administration for the use of the facilities now occupied and known as "Legion Branch of the San Antonio State Tuberculosis Hospital" and to be hereafter known as the Legion Annex of the Kerrville State Hospital.

Repealer

Sec. 6. The following Statutes and Acts, together with all laws or parts of laws in conflict herewith, are hereby repealed.

House Bill No. 68, Chapter 30, Acts of the Fifty-third Legislature, Regular Session, 1953, compiled as Article 3201b, Texas Civil Statutes; House Bill No. 409, Chapter 429, Acts of the Fifty-fourth Legislature, Regular Session, 1955, compiled as Article 3201b—1, Texas Civil Statutes. Acts 1963, 58th Leg., p. 103, ch. 57.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act changing the name and function of the "Legion Branch of the San Antonio

State Tuberculosis Hospital"; repealing all laws in conflict herewith; and declaring an emergency. Acts 1963, 58th Leg., p. 103, ch. 57.

CHAPTER THREE—OTHER INSTITUTIONS**TEXAS BLIND, DEAF AND ORPHAN SCHOOL****Art.**

3221c. Jurisdiction and control over Texas Blind, Deaf and Orphan School [New].

COUNTY-WIDE DAY SCHOOLS FOR THE DEAF [NEW]

3222b. Special county-wide day schools for deaf scholastics [New].

Mentally retarded persons act, see art. 3871b.

Art. 3203. 190 To teach printing

County-wide day schools for the deaf, see art. 3222b.

Art. 3207b. Commission; eligibility for appointment; compensation; secretary; expenses and accounts

Travel Regulations Act of 1959, see art. 6823a.

ABILENE STATE SCHOOL [NEW]**Art.**

3232c. Conveyance of excess land of Abilene State School [New].

CORPUS CHRISTI STATE SCHOOL

3263e. Corpus Christi State School [New].

TEXAS BLIND, DEAF AND ORPHAN SCHOOL

Art. 3221. 210 Powers and duties of Board of Control

County-wide day schools for the deaf, and Orphan School to Board for Texas State Hospitals and Special Schools, see art. 3222b. art. 3221c.
 Transfer of management and administrative responsibility for Texas Blind, Deaf

Art. 3221b. Texas Blind, Deaf and Orphan School, name changed to

Transfer of management and administrative responsibility for Texas Blind, Deaf and Orphan School to Board for Texas State Hospitals and Special Schools, see art. 3221c.

Art. 3221c. Jurisdiction and control over Texas Blind, Deaf and Orphan School

Section 1. From and after the passage of this Act, all management and administrative responsibility for the Texas Blind, Deaf and Orphan School shall be transferred from the Texas Youth Council to the Board for Texas State Hospitals and Special Schools.

Sec. 2. The Board for Texas State Hospitals and Special Schools shall have exclusive jurisdiction and control over the Texas Blind, Deaf and Orphan School; and it shall be the duty of the Executive Director and Administrator of Special Schools to appoint a superintendent for the institution subject to the approval of the Board for Texas State Hospitals and Special Schools. Such jurisdiction shall extend to all physical assets, including lands, property, etc., now owned or purchased for the benefit of the Texas Blind, Deaf and Orphan School, and appropriations, grants, funds, and gifts, made for the benefit of the Texas Blind, Deaf and Orphan School shall be administered and expended by the Board for Texas State Hospitals and Special Schools. Acts 1963, 58th Leg., p. 208, ch. 111.

Effective 90 days after May 24, 1963, date of adjournment. Acts 1963, 58th Leg., p. 208, ch. 111, § 3, repealed all conflicting laws.

Art. 3222a. Relocation of site; new facilities; disposition and transfer of lands

Transfer of management and administrative responsibility for Texas Blind, Deaf and Orphan School to Board for Texas State Hospitals and Special Schools, see art. 3221c.

COUNTY-WIDE DAY SCHOOLS FOR THE DEAF [NEW]

Art. 3222b. Special county-wide day schools for deaf scholastics

Rehabilitation districts for handicapped persons, see art. 2675k.

Art. 3232c. Conveyance of excess land of Abilene State School

Determination of amount of excess land; sale and conveyance

Section 1. The Board for Texas State Hospitals and Special Schools is hereby authorized in its discretion to determine land in excess of the needs of the operation of the Abilene State School and thereafter sell and

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

convey for cash any land which it has determined is no longer needed for the proper operation of the Abilene State School.

Notice to Highway Department and Board of Control

Sec. 2. After the Board has determined what land, if any, is in excess of the needs of the Abilene State School, it shall notify the State Highway Department and the State Board of Control that the land is to be sold, giving a description of the excess land. If the State Highway Department shall determine that any of said land is necessary for the construction or operation of any existing or proposed state highway, title of such land shall be retained in the state and the control over said land shall be transferred to the State Highway Department under the provisions of subsection 2 of Section 4 of Chapter 300, Acts of the 55th Legislature, 1957. If the land is not to be used for any state highway purposes, then the State Board of Control shall determine if any of said land can be used for a necessary purpose by any state agency, and if the Board of Control has determined that the land can be so used, it shall notify such agency that the land is available, and if the state agency agrees to accept and use the land for a necessary purpose, then title to such land shall be retained in the state and the control of such land shall be transferred to the state agency.

Advertisement; bids

Sec. 3. If the excess land, or any part of it, is not to be retained or used by the State Highway Department or any state agency after a period of twelve (12) months from the date of notification, then the Board for Texas State Hospitals and Special Schools may sell same after advertisement in a newspaper published in Taylor County, Texas, in at least two (2) issues thereof, the first such publication to be made at least thirty (30) days in advance of the sale date describing the land to be sold and calling for sealed bids thereon, the bids to be opened on the sale date by a majority of the Board either at its office in Austin, Texas, or at such other place as the Board may designate in the advertisement. The advertisement may describe in general terms the property to be sold but shall state that a description by metes and bounds may be obtained from the Board. Each bid shall be accompanied by cashier's or certified check

LUFKIN STATE SCHOOL [NEW]

Art. 3263d. Lufkin State School

Board of Texas state hospitals and special schools, see art. 3174b.

Lufkin state school independent school district, see art. 2668d.

CORPUS CHRISTI STATE SCHOOL

Art. 3263e. Corpus Christi State School

Construction, establishment and maintenance; location

Section 1. There shall be constructed, established, and maintained an additional school for the diagnosis, special training, education, supervision, treatment, care and control of mentally retarded persons of this state. Its name shall be the "Corpus Christi State School," and it shall be located on land previously offered to the Board for Texas State Hospitals and Special Schools for this purpose, which land is generally described as follows:

Beginning at the northwest corner of Block 4 of the Airport Park Addition to the City of Corpus Christi as shown by map or plat of record in Vol. 8, Page 26, Map Records of Nueces County, Texas;

Thence in a southerly direction with the west boundary line of said Block 4, Airport Park Addition to the southwest corner of said Airport Park Addition;

Thence in a southeasterly direction with the south boundary line of said Airport Park Addition and continuing with the south boundary line of Block 5 of the Harlem Park Addition as recorded in Vol. 9, Page 57, Map Records of Nueces County, Texas, to a point in the northwest right-of-way line of Greenwood Drive;

Thence in a southwesterly direction with the northwest right-of-way line of Greenwood Drive to a point in the north right-of-way line of Horne Road;

Thence in a northwesterly direction with the proposed north right-of-way line of Horne Road to a point 42 feet east of the southeast corner of Lot 1 of the Gugenheim and Cohn Farm Lots;

Thence in a northerly direction with the east boundary line of the existing north-south runway of the former Cliff Maus Airport and its northerly extension to a point in the southeast right-of-way line of Old Brownsville Road;

Thence in a northeastly and easterly direction with the southeast right-of-way line of Old Brownsville Road to the place of beginning.

Save and except from above-described area the following tracts:

Tract 1. An approximately one-acre tract of land at the intersection of Greenwood Drive and Horne Road occupied by City of Corpus Christi Fire Station No. 10.

Tract 2. An approximately five-acre tract of land located on Horne Road approximately 1,000 feet northwesterly of Greenwood Drive and occupied by a Texas National Guard Armory.

Tract 3. An approximately one-fourth acre tract of land located on Greenwood Drive adjacent to the most southerly corner of the Harlem Park Addition and occupied by a City of Corpus Christi gas regulator station.

Tract 4. An easement for an existing 9' x 5' reinforced concrete box storm sewer extending in an east-west direction across the above-described property approximately 1,600 feet north of Horne Road and known as the "Blake Interceptor."

The Board shall take title to the above-described land in the name of the State of Texas for the use and benefit of said school; provided, however, that the Attorney General's Department shall first approve title to the land.

Buildings; plans and specifications

Sec. 2. There shall be constructed upon said grounds permanent, suitable, substantial, and fireproof buildings sufficient in all respects to care for mentally retarded persons; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation and sewage, within the limits of legislative appropriations.

The Board for Texas State Hospitals and Special Schools shall proceed to prepare plans and specifications for said buildings; and immediately after this Act becomes effective and title to the above-described land shall

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

have been approved by the Attorney General as being vested in the State of Texas, and upon the availability of sufficient appropriations, the Board shall contract for the erection of the necessary buildings for the proper operation of said school, as provided by law; and said Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Personnel; admission and care of mentally retarded persons

Sec. 3. Upon the completion of the buildings and facilities, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such school and to adequately treat such persons as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally retarded.

Corpus Christi State School Independent School District

Sec. 4. Effective with the date persons are admitted to the Corpus Christi State School, such school shall become and is hereby created the Corpus Christi State School Independent School District. The territorial limits of the Independent School District created shall be co-extensive with the territorial boundaries of the Corpus Christi State School. The Board for Texas State Hospitals and Special Schools shall be ex officio trustees of the district so created. Acts 1963, 58th Leg., p. 182, ch. 103.

Effective 90 days after May 24, 1963, date of adjournment.

Denton State School Independent School District, see art. 2668a.

New school districts created at eleemosynary institutions, see art. 2666.

Title of Act:

An Act establishing and providing for a state mentally retarded school; regulating and providing for the operation of same; creating an Independent School District; and declaring an emergency. Acts 1963, 58th Leg., p. 182, ch. 103.

TITLE 53—ESCHEAT

Art. 3272a. Personal property subject to escheat

Unclaimed funds statute for life insurance companies, see V.A.T.S. Insurance Code, art. 4.08.

**TITLE 59—FEEBLE MINDED PERSONS—PROCEEDINGS
IN CASE OF**

Art.
3871b. Mentally retarded persons [New].

Art.
3871e. Additional state school for mental-
ly retarded west of one hun-
dredth meridian [New].

Art. 3871b. Mentally retarded persons

Research

Sec. 14. The Board may, with funds available for such purpose from any source, do research to determine the causes, proper treatment and diagnosis of mental retardation and may use any personnel and facilities under its control and management for carrying out such research. As amended Acts 1963, 58th Leg., p. 62, ch. 42, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Jurisdiction of probate courts specially created as to mentally retarded, mentally ill, persons, etc., see art. 1970a—1.

Rehabilitation districts for handicapped persons, see art. 2675k.

Art. 3871c. State School for mentally retarded

Rehabilitation districts for handicapped persons, see art. 2675k.

Art. 3871d. Additional state school for mentally retarded in gulf coast area

Board for Texas state hospitals and special schools, see art. 3174b.

Texas state hospitals and special schools, see art. 3174 et seq.

Outpatient clinics, see art. 3174b—4.

Art. 3871e. Additional state school for mentally retarded west of one hundredth meridian

Establishment

Section 1. There shall be constructed, established, and maintained an additional school for the diagnosis, special training, education, supervision, treatment, care or control of mentally retarded persons of this state. It shall be known as the State School; that after the said State School has been located, then the name of the city near which it is located shall be added before the words "State School" which shall be its name. The school shall be located at some point west of the one hundredth meridian, or within any county through which the one hundredth meridian passes.

The Board for Texas State Hospitals and Special Schools shall select and acquire by gift or purchase, within the limits of legislative appropriations, a site for said school, and the Board, in selecting such site, shall make such selection with a view to its accessibility and convenience to the greatest number of inhabitants, and the same shall contain sufficient land and have utilities readily available. Said Board shall take title to the land so selected by them in the name of the State of Texas for the use and benefit of said school; provided, however, that the Attorney General's Department shall first approve the title to the land so selected by the Board.

Buildings

Sec. 2. There shall be constructed upon said grounds so selected permanent, suitable, substantial, and fireproof buildings sufficient in all respects to care for mentally retarded persons; said buildings are to be provided with modern improvements for furnishing water, heat, ventilation and sewage, within the limits of legislative appropriations.

The Board for Texas State Hospitals and Special Schools shall proceed to prepare plans and specifications for said buildings; and immediately after this Act becomes effective and title to the land designated as the site for said school shall have been approved by the Attorney General as being vested in the State of Texas, and upon the availability of sufficient appropriations, the Board shall contract for the erection of the necessary buildings for the proper operation of said school, as provided by law; and said Board shall have the power and authority to do and perform all things necessary for carrying out the purposes of this Act.

Personnel; patients

Sec. 3. Upon the completion of the buildings and facilities, the Board for Texas State Hospitals and Special Schools shall appoint such personnel as are necessary to operate and maintain such school and to adequately treat such persons as are admitted, within the limits of legislative appropriations. The Board for Texas State Hospitals and Special Schools shall admit persons and shall provide for their care and maintenance under the same laws, rules and regulations as govern the admission and care of mentally retarded persons provided for in the General Laws of the State of Texas governing institutions for the care of the mentally retarded. Acts 1963, 58th Leg., p. 607, ch. 220.

Effective 90 days after May 24, 1963, date of adjournment.

Particular state schools, see art. 3202 et seq.

State schools for mentally retarded, see arts. 3871c et seq.

Title of Act:

An Act establishing and providing for a state mentally retarded school; regulating and providing for the operation of same; and declaring an emergency. Acts 1963, 58th Leg., p. 607, ch. 220.

TITLE 61—FEES OF OFFICE

CHAPTER ONE—GENERAL PROVISIONS

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| <p>Art.
3886h. Compensation of district attorney and assistants in 34th district [New].</p> <p>3912e—20. Counties of 4,600 to 4,750; compensation of officials [New].</p> | <p>Art.
3912e—21. Counties of 17,653 to 17,700; compensation of officials and employees [New].</p> <p>3912j. Counties of 600,000 to 900,000; salaries of county road engineers [New].</p> |
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Art. 3886h. Compensation of district attorney and assistants in 34th District

Section 1. The District Attorney of the Thirty-fourth Judicial District of this State shall be paid a salary in an amount not to exceed Fourteen Thousand Dollars (\$14,000) per year. The First Assistant District Attorney of said Thirty-fourth Judicial District shall receive a salary not to exceed Eleven Thousand Dollars (\$11,000) per year; and the other Assistant District Attorneys and Investigators in said District shall receive salaries not to exceed Eight Thousand, Five Hundred Dollars (\$8,500) a year.

Art. 3899b. Offices, office supplies, furniture and automobiles; aid for district attorneys

Sec. 1a. In addition to the expenditures authorized in Section 1, in all counties having a population in excess of one million and two hundred thousand (1,200,000) inhabitants according to the last preceding Federal Census, the Commissioners Court may, in its discretion, at the expense of the county, furnish Justices of the Peace such courtrooms, offices and office furniture as may be necessary for the performance of their duties, and furnish Constables such offices and office furniture as may be necessary for the performance of their duties. Provided that nothing contained herein shall be construed so as to modify the provisions of Article 2379 of the Revised Civil Statutes of Texas, 1925. As amended Acts 1963, 58th Leg., p. 742, ch. 278, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 3. In addition to the expenditures authorized in the preceding paragraphs, Numbers 1 and 2 of said Article 3899b, in all counties having a population in excess of three hundred and fifty-five thousand (355,000) inhabitants according to the preceding or any future Federal Census, the Commissioners Court of the county of the Tax Assessor and Tax Collector'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 Tax Assessor and Collector or his deputies 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. All expenses incurred in the operation, repair, and maintenance of such automobile or automobiles purchased by the county shall be incurred and paid in the manner provided by subdivision 1 of Section 19 of Acts 1935, Forty-fourth Legislature, Second Called Session, Chapter 465.¹ The Commissioners Court may, in lieu of the purchase of automobiles for the use of the Assessor and Col-

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lector of Taxes, authorize the use of personally owned automobiles of the Assessor and Collector of Taxes or his deputies in which event such Assessor and Collector of Taxes or his deputies shall file monthly sworn reports with the County Auditor showing mileage covered by such automobiles on official business and the nature thereof and may be allowed eight cents (8¢) per mile for each mile traveled which sum shall cover all expenses of maintenance, operation, and depreciation, and claims therefor shall be audited and allowed in the manner provided by Section 19 of Acts, 1935, Second Called Session, Chapter 465, for other expenses of County and District Officers. The District Attorney or Criminal District Attorney 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 such office not to exceed Twenty-five Hundred Dollars (\$2,500) in any one calendar year; provided that such amounts as may be allowed shall be allowed upon written application of such District Attorney or Criminal District Attorney showing the necessity therefor, and provided further that said Commissioners Court may require any other evidence that it may deem necessary to show the necessity for such expenditures, and that its judgment in allowing or refusing to allow the same shall be final.

No expenditures made in accordance with the preceding paragraph shall lessen or diminish the amount of fees that said District Attorney or Criminal District Attorney may retain or receive as compensation under the terms of Articles 3883 and 3891 of the Revised Civil Statutes as amended by the Acts of the Forty-third Legislature or under the terms of Article 3892 of said Statutes as amended by the Acts of the Forty-first Legislature and this Act shall be cumulative of any other Act now in effect permitting such Commissioners Court to defray, or aid in defraying the expenses incurred by such County Tax Assessor and Collector, or District Attorneys or Criminal District Attorneys, and all such Acts shall be and remain valid and effective and wholly unaffected hereby. As amended Acts 1953, 53rd Leg., p. 579, ch. 222, § 1; Acts 1963, 58th Leg., p. 971, ch. 394, § 1.

¹ Article 3912e.

Effective 90 days after May 24, 1963, date of adjournment.

Method of compensation of district, county and precinct officers, see art. 3912e.

Compensation of officers in counties of 355,000 or over, see art. 3912d.

Art. 3912e. Method of compensation of district and certain designated county and precinct officers

Commissioners' Court to fix salaries of certain officers; increase

Sec. 13.

(b) In those counties wherein the county officials are on a salary basis and in which counties there is a criminal district attorney or a county attorney performing the duties of a district attorney, there shall be deposited in the officers salary fund on the first day of September, January and May of each year, such sums as may be apportioned to such county under the provisions of this Act out of the available appropriations, made by the Legislature for such purposes; provided, however, that in counties wherein the Commissioners Court is authorized to determine whether county officers shall be compensated on a salary basis, no apportionment shall be made to such county until the Comptroller of Public Accounts shall have been notified of the order of the Commissioners Court that the county officers of such county shall be compensated on a salary basis for the

fiscal year. It shall be the duty of the Comptroller of Public Accounts to annually apportion to such counties any monies appropriated for said year for such apportionment; each such county entitled to participate in such apportionment shall receive for the benefit of its officers salary fund or funds its proportionate part of the appropriation which shall be distributed among the several counties entitled to participate therein, on the basis of the per capita population of each such county according to the last preceding Federal Census; provided the annual apportionment for such purposes shall be determined as follows: the apportionment shall not exceed Ten Cents (10¢) per capita of said population in those counties under eighty five hundred (8500) inhabitants; the apportionment shall not exceed Seven and One-half Cents (7½¢) per capita of said population in those counties having a population of not less than eighty five hundred (8500) and not more than nineteen thousand (19,000) inhabitants; the apportionment shall not exceed Five Cents (5¢) per capita of said population in those counties having a population of not less than nineteen thousand and one (19,001) and not more than seventy five thousand (75,000) inhabitants and the apportionment shall not exceed Four Cents (4¢) per capita in those counties having a population of over seventy five thousand (75,000) inhabitants. Provided the provisions of this Act shall also apply to Harris County for the constitutional office of the District Attorney for the Criminal District Court of Harris County at not to exceed Four Cents (4¢) per capita. As amended Acts 1949, 51st Leg., p. 90, ch. 54, § 1; Acts 1963, 58th Leg., p. 586, ch. 210, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Commissioners' Court to fix salaries of county and precinct officers in counties of less than 20,000; increase

Sec. 15.

(a) Repealed. Acts 1963, 58th Leg., p. 586, ch. 210, § 2. Eff. 90 days after May 24, 1963, date of adjournment.

Prior to repeal, subdivision (a) of section 15 was amended by acts 1949, 51st Leg., p. 90, ch. 54, § 2.

Art. 3912e—20. Counties of 4,600 to 4,750; compensation of officials

Section 1. In each county in the State of Texas having a population of more than four thousand, six hundred (4,600) persons according to the last preceding Federal Census and not more than four thousand, seven hundred and fifty (4,750) persons according to such Federal Census, and with a taxable valuation for county purposes of not less than Forty-five Million Dollars (\$45,000,000) according to the tax roll as prepared by the tax assessor-collector of the respective counties for the year 1962, the Commissioners Courts of such counties are authorized to fix the salaries of county and district officials at a sum of not less than the salary paid for the calendar year of 1962, nor more than Eight Thousand, Five Hundred Dollars (\$8,500) per year.

Art. 3912j. Counties of 600,000 to 900,000; salaries of county road engineers

In all counties having a population of more than six hundred thousand (600,000) persons, and less than nine hundred thousand (900,000) persons, according to the last preceding Federal Census, the County Road Engineer shall receive an annual salary not to exceed Thirteen Thousand, Two Hundred Dollars (\$13,200), the exact amount thereof

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to be determined by the Commissioners Courts of such counties, and said salary shall be paid in twelve (12) equal monthly installments out of the Road and Bridge Fund of such counties. Acts 1963, 58th Leg., p. 117, ch. 68, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Salaries of county road engineers, see art. 6716-1, § 6.

Title of Act:

An Act fixing the maximum salary for the County Road Engineer in certain counties; repealing all laws in conflict herewith; and declaring an emergency. Acts 1963, 58th Leg., p. 117, ch. 68.

CHAPTER TWO—ENUMERATION

Art.

3946a. River authority directors.

Art. 3946a. River authority directors

Each Director of Boards of Directors of river authorities of the state created by the Legislature by special law pursuant to the provisions of Section 59 of Article 16 or Section 52 of Article 3 of the Texas Constitution shall receive as fees of office the sum of not more than Twenty-five Dollars (\$25) for each day of service necessary to discharge his duties, plus actual expenses, provided that such compensation and expenses are approved by vote of the Board of Directors. Each Director shall file with the Secretary or Treasurer a statement showing the amount due him each month or as soon thereafter as practicable before check shall be issued therefor. Acts 1963, 58th Leg., p. 497, ch. 182, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 497, ch. 182, § 2, provided: "All laws or parts of law, either special or general, in conflict herewith are hereby repealed to the extent of such conflict."

Title of Act:

An Act setting standard fees for Directors of river authorities created by the Legislature; providing for their expenses; providing for authorization and method of payment; repealing laws in conflict; and declaring an emergency. Acts 1963, 58th Leg., p. 497, ch. 182.

CHAPTER THREE—MARL, SAND AND SHELL

Art. 4053. Permit to use marl, etc.

Application; terms and conditions of permit

Section 1. Anyone desiring to purchase any of the marl and sand of commercial value and any of the gravel, shells or mudshell included within the provisions of this Chapter, or otherwise operate in any of the waters or upon any island, reef, bar, lake, bay, river, creek or bayou included in this Chapter, shall first make written application therefor to the Parks and Wildlife Commission, designating the limits of the territory in which such person desires to operate. If the Parks and Wildlife Commission finds that the taking, carrying away or disturbing of the marl, gravel, sand, shells or mudshell in the designated territory would not damage or injuriously affect any oysters, oyster beds, fish inhabiting waters thereof or adjacent thereto or that such operation would not damage or injuriously affect any island, reef, bar, channel, river, creek or bayou used for frequent or occasional navigation, or change or otherwise injuriously affect any current that would affect navigation, it may issue a permit to such person after such applicant shall have complied with all requirements prescribed by said Parks and Wildlife Commission. The permit shall au-

thorize the applicant to take, carry away or otherwise operate within the limits of such territory as may be designated therein, and for such substance or purpose only as may be named in the permit and upon the terms and conditions of the permit. No permit shall be assignable, and a failure or refusal of the holder to comply with the terms and conditions of such permit shall operate as an immediate termination and revocation of all rights conferred therein or claimed thereunder. No special privilege or exclusive right shall be granted to any person, association of persons, corporate or otherwise, to take or carry away any of such products from any territory or to otherwise operate in or upon any island, reef, bay, lake, river, creek, or bayou included in this Chapter.

Consideration of injurious effects and industrial requirements

Sec. 2. In determining whether or not such permit should be issued, the Parks and Wildlife Commission shall take into consideration any injurious effect which might occur to any oysters, oyster beds, fish inhabiting waters thereof or adjacent thereto, as well as the requirements of industry for such marl, sand, gravel, shells or mudshell and the relative value thereof to the State of Texas for commercial use.

Denial of application for permit; findings of fact

Sec. 3. In any order of the Commission issued denying an application for a permit, the Commission shall set forth full and complete findings of fact pointing out in detail the basis of its action.

Removal and replanting of oysters and oyster beds

Sec. 4. In carrying out its duties under the provisions of this Act, the Parks and Wildlife Commission shall be authorized, after due notice and hearing, to remove oysters or oyster beds and replant the same on other natural or artificially constructed reefs; provided, that before any action is taken pursuant to this Section, there shall be a finding by the Commission that such removal and replanting will be of benefit to the growth and propagation or betterment of oysters or oyster beds or fishing conditions and provided further that any such removal and replanting shall be done at the expense of the applicant for permit and not the State of Texas.

Rights of state oil and gas lessees

Sec. 5. Nothing in this Chapter shall be construed to require any lessee of an oil and gas lease, which has heretofore or may hereafter be executed by the State, to obtain a permit from the Parks and Wildlife Commission to exercise the rights granted said lessee under said lease and the provisions of the applicable laws of the State of Texas. As amended Acts 1963, 58th Leg., p. 674, ch. 248, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

**CHAPTER FIVE—TEXAS SHRIMP CONSERVATION
ACT [NEW]**

Art.

4075b. Texas Shrimp Conservation Act.

Art. 4075b. Texas Shrimp Conservation Act**Short title; public policy**

Section 1. This Act shall be known as the "Texas Shrimp Conservation Act" and it is hereby declared by the Legislature of the State of Texas to be the public policy of this State that the shrimp resources of the State of Texas be conserved and protected from depletion and waste in order that the people of Texas and their posterity may enjoy the most reasonable and equitable privileges in the ownership and taking of such shrimp resources, and that the shrimp industry of Texas be protected from unlawful encroachment and be promoted and fostered consistent with the general good of the people of this State and to those ends, and in the interest of achieving fair, impartial, and uniform law enforcement, it is further declared by the Legislature of Texas to be the public policy of this State that any and all laws, acts, bills, rules, regulations, proclamations or orders relating to shrimp or the shrimp industry shall be carried out under this Act, any other provision of the law to the contrary notwithstanding.

Research and studies; statistical information; reports; findings

Sec. 2. It shall be the duty of the Game and Fish Commission to conduct, or cause to be conducted through any other agency that said Commission may designate, continuous research, investigations and studies of the supply, economic value, environment and breeding habits of the different species of shrimp and other factors affecting their increase or decrease, particularly with reference to the use of trawls, nets or other devices for the taking of shrimp, and with reference to industrial and other pollution of waters naturally frequented by shrimp, and to any and all other factors that enter into a reduction or increase in the supply of the shrimp resources of Texas. The Commission is hereby directed to gather statistical information on the marketing and processing, and on the harvesting, and catching, of shrimp landed at points in the State of Texas. The information shall set forth the quantity, in number of pounds, of shrimp landed at points in Texas, the waters from which taken, and the names of the various species. The Game and Fish Commission shall prepare forms for reports which shall be furnished to those persons licensed under this Act to unload shrimp within Texas who shall make monthly reports to the Commission on said forms, not later than the tenth day of each month. Pursuant to and based upon such studies and reports, said Commission shall enter its findings of fact with respect thereto in the permanent records of said Commission, which records shall be kept current and up-to-date as nearly as practicable and such findings of facts shall be published in the form of a report and presented to the Governor and each Member of the Legislature prior to each Regular Session of the Legislature.

Definitions

Sec. 3. The following words, terms, and phrases used in this Act are hereby defined as follows:

(a) "Coastal Waters," as that term is used herein, means all of the salt waters of the State of Texas, including that portion of the Gulf of Mexico within the jurisdiction of this State, and for the purposes of this Act, said coastal waters of Texas are divided into two (2) classes, namely, the "Inside Waters" and the "Outside Waters." The term "Outside Waters," as that term is used herein, shall mean the salt waters of this State contiguous to, and seaward from, the shore line of the State of Texas along the Gulf of Mexico as such shore line is projected and extended in a continuous and unbroken line, following the contours and meanders of such shore line, across bays, inlets, passes, rivers, streams and other bodies of water; the same being that portion of the Gulf of Mexico extending from such shore line seaward and within the jurisdiction of the State of Texas. The term "Inside Waters," as that term is used herein, shall mean all bays, inlets, outlets, passes, rivers, streams and other bodies of water landward from such shore line and contiguous to, or connected with, but not a part of, the Gulf of Mexico and within which the tide regularly rises and falls and in which salt-water shrimp are found or into which salt-water shrimp migrate.

(b) "Major Bays," as used herein, means the deeper, major bay areas of the inside waters, and for the purposes of this Act shall include Sabine Lake, Trinity Bay, Galveston Bay, East Galveston Bay, West Galveston Bay, Matagorda Bay including Keller's Bay and East Matagorda Bay, Tres Palacios Bay, Espiritu Santo Bay, Lavaca Bay from the present causeway seaward, San Antonio Bay, Ayres Bay, Aransas Bay, Mesquite Bay, and Corpus Christi Bay, all exclusive of tributary bays, bayous and inlets.

(c) "Commission," as used herein, means the Game and Fish Commission of the State of Texas.

(d) "Person," as used herein, means any person, firm, partnership, company, corporation, co-operative, association, or any legal entity whatsoever.

(e) "Possess" in its different tenses, as used herein, includes the act of having in possession or control, keeping, detaining, restraining or holding, as owner, or under a fishing ley, or as agent, bailee, or custodian of another; and whenever possession, sale, purchase, unloading or other handling of shrimp is prohibited, reference is made and intended, and shall apply, equally to such shrimp coming from without the State as to that taken within the State unless otherwise specifically provided.

(f) A "Commercial Gulf Shrimp Boat," as that term is used herein, is any boat or vessel which is required to be numbered or registered by and under the laws of the United States of America or of the State of Texas, and which is used for the purpose of taking or catching, or assisting in taking or catching, shrimp and other edible aquatic products from the outside waters of the State of Texas for pay, or for the purpose of sale, barter or exchange, or which is used for the purpose of taking or catching, or assisting in taking or catching, shrimp and other edible aquatic products from salt waters outside of the State of Texas for pay or for the purpose of sale, barter or exchange, and unloading same at a port or other point

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in Texas without having been previously unloaded in some other state or foreign country.

(g) A "Commercial Bay Shrimp Boat," as that term is used herein, is any boat or vessel which is required to be numbered or registered by and under the laws of the United States of America or the State of Texas, and which is used for the purpose of taking or catching, or assisting in taking or catching, shrimp and other edible aquatic products from the inside waters of the State of Texas for pay, or for the purpose of sale, barter or exchange.

(h) A "Commercial Bait Shrimp Boat," as used herein, means any boat or vessel which is required to be numbered or registered by and under the laws of the United States of America or of the State of Texas, and which is used for the purpose of taking or catching, or assisting in taking or catching, shrimp for use as bait and other edible aquatic products from the inside waters of Texas for pay, or for the purpose of sale, barter or exchange.

(i) A "Shrimp House Operator," as used herein, means any person other than one who has purchased a license as a 'Wholesale Fish Dealer' as that term is defined by Section 1(b) of Chapter 29, Forty-third Legislature of Texas, First Called Session, 1933,¹ who operates a shrimp house, plant or other establishment for compensation or profit for the purpose of unloading and handling from commercial gulf shrimp boats or commercial bay shrimp boats, fresh shrimp and other edible aquatic products caught or taken from the coastal waters of this State, or from salt waters outside of this State and brought into this State without having been previously unloaded in some other state or foreign country.

(j) A "Bait-Shrimp Dealer," as used herein, is any person other than one who has purchased a license as a "Wholesale Fish Dealer," as that term is defined by Section 1(b) of Chapter 29, Forty-third Legislature of Texas, First Called Session, 1933, who operates an established place of business in any coastal county of this State for compensation or profit for the purpose of handling shrimp caught or taken for use as bait from the inside waters of this State.

(k) An "Individual Bait-Shrimp Trawl," as used herein means any trawl, net or rig used for the purpose of taking or catching, or attempting to take or catch, shrimp for one's own personal use.

(l) The term "at any time," as used herein, means at any time of year, including both daytime and nighttime, and on any occasion.

¹ Vernon's Ann.P.C. art. 934a.

Limits for inside and outside waters

Sec. 4. (a) It shall be unlawful for any person (except for catching bait shrimp or except as otherwise herein specifically provided) to take or catch, or attempt to take or catch, at any time, in either the inside waters or in the outside waters of this State, any amount of shrimp which shall average in count of individual specimens more than sixty-five (65) headless fresh shrimp to the pound, or which shall average in count of individual specimens more than thirty-nine (39) heads-on fresh shrimp to the pound, or for any person (except for catching bait shrimp or except as otherwise specifically provided herein), at any time, to possess in the State of Texas, or have on board any boat or vessel within the coastal waters of this State, or to buy, sell, unload, transport or handle in any way, in the State of Texas, any amount of headless fresh shrimp which shall average in count of individual specimens more than sixty-five (65)

headless fresh shrimp to the pound, or which shall average in count of individual specimens more than thirty-nine (39) heads-on fresh shrimp to the pound, regardless of whether or not such small fresh shrimp of said count shall have been caught or taken in the coastal waters of the State of Texas or in waters outside of the State of Texas.

(b) The "count" of shrimp, as provided for herein, shall be taken in the presence of any person possessing said shrimp either as owner, employee, agent, bailee, or other custodian, by an officer, agent, deputy or warden of the Game and Fish Commission who shall select from the entire quantity of shrimp being sampled a minimum of not less than three (3) representative samples for each one thousand (1,000) pounds, or fraction thereof, of either headless or heads-on shrimp, but in any event not less than three (3) samples for the entire quantity of shrimp being sampled; each sample shall consist of a sufficient number of specimens to weigh out five (5) pounds after having been allowed to drain for three (3) minutes, or more; after said sample shall have been weighed and determined to weigh five (5) pounds, the number of specimens in said five (5) pound sample shall be counted, and the count thus obtained shall then be divided by five (5) in order to ascertain the count per pound of such five (5) pound sample; after counts shall have been thus made of all samples taken of such entire quantity of shrimp, the average count per pound of each sample taken shall be totaled and the final average count per pound of the entire quantity of shrimp being sampled shall be determined by dividing that total by the number of samples counted; and such average count per pound so determined shall constitute prima facie evidence of the average count per pound of said shrimp in the entire cargo or quantity of shrimp sampled. Headless and heads-on shrimp shall always be sampled, weighed and counted separately.

(c) In the event shrimp, which when caught and landed were of legal size according to the count as herein provided, are thereafter graded for size for the purpose of packaging, processing or other lawful purpose, and the smaller shrimp making up the average count of such entire lot as herein provided are graded out into a separate lot or lots, and such smaller shrimp thus segregated from such entire lot are above the average count as herein provided, the possession, purchase, sale, unloading, transportation or handling of such particular smaller graded shrimp shall not be unlawful.

Commercial bay shrimp boat license; procedures and regulations

Sec. 5. (a) It shall be unlawful for any commercial bay shrimp boat to be used for the purpose of taking or catching, or assisting in taking or catching, shrimp and other edible aquatic products from the inside waters of Texas, without the owner thereof having first procured a license, to be known as a Commercial Bay Shrimp Boat License, from the Commission privileging such boat to be so used within the inside waters of Texas. The fee for a Commercial Bay Shrimp Boat License shall be Thirty Dollars (\$30) and such License shall be issued for a period of one (1) year and shall expire March 1st of the year following the date of issuance, and shall be secured from and issued by the Commission only during the months of January and February of each year; the License shall include the right to use and operate within the inside waters of this State all shrimp trawls and fishing gear, except fish seines or nets, with which said boat is equipped, the use of which is not otherwise prohibited by law; and said boat shall not be required to also have a 'Commercial Fishing Boat License,' as provided by Section 3 of Chapter 68 of the Acts of the Fifty-first Legislature of Texas, Regular Session, 1949, or other Statutes of this

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State; ¹ but the captain and each paid member of the crew of said boat shall be required to have a Commercial Fisherman's License issued by the Commission, and said boat shall be required to be licensed as a commercial gulf shrimp boat in order to operate within the outside waters of this State; the Commercial Bay Shrimp Boat License shall be a metal or plastic sign or emblem, of prescribed and uniform character and of a different color or design for each year, at least thirty-two (32) square inches in size, of a distinguishable character, color and design different from the emblem required of a commercial bait-shrimp boat or of a commercial gulf shrimp boat, issued by the Commission, and shall be prominently displayed on the bow, outside of the wheelhouse, or at other designated point on the outside of said boat as specified by said Commission and on each side of said boat, evidencing the payment of such boat License.

(b) Such Commercial Bay Shrimp Boat License shall be issued by the Commission only to a person who, at the time he applies for such license, shall make a sworn affidavit that he will maintain adequate facilities to conduct such business and that he intends to derive the major portion of his livelihood from commercial shrimp fishery.

(c) It shall be unlawful for any commercial bait-shrimp boat to be used for the purpose of taking or catching, or assisting in taking or catching, shrimp for use as bait only and other edible aquatic products from the inside waters of Texas, without the owner thereof having first procured a license, to be known as a Commercial Bait-Shrimp Boat License, from the Commission privileging such boat to be so used within the inside waters of Texas. The fee for a Commercial Bait-Shrimp Boat License shall be Thirty Dollars (\$30) and such License shall expire August 31st following the date of issuance; the License shall include the right to use and operate within the inside waters of this State all shrimp trawls and fishing gear, except fish seines or nets, with which said boat is equipped, the use of which is not otherwise prohibited by law; and said boat shall not be required to also have a "Commercial Fishing Boat License" as provided by Section 3 of Chapter 68 of the Acts of the Fifty-first Legislature of Texas, Regular Session, 1949, or other Statutes of this State; but the captain and each paid member of the crew of said boat shall be required to have a Commercial Fisherman's License issued by the Commission, and said boat shall be required to be licensed as a commercial gulf shrimp boat in order to operate within the outside waters of this State. The Commercial Bait-Shrimp Boat License shall be a metal or plastic sign or emblem, of prescribed and uniform character and of a different color or design for each year, at least thirty-two (32) square inches in size, of a distinguishable character, color and design different from the emblem of a commercial bay shrimp boat or of a commercial gulf shrimp boat, issued by the Commission, and shall be prominently displayed on the bow, outside of the wheelhouse, or at other designated point on the outside of said boat as specified by said Commission and on each side of said boat evidencing the payment of such boat License.

(d) Such License for a commercial bay shrimp boat or for a commercial bait-shrimp boat shall be issued by the Commission only upon presentation to the Commission by the boat owner of the boat's United States Bureau of Customs official document or the Texas certificate of number for a motor boat, and the name of the boat and the number appearing on said official document or Texas certificate of number shall be placed by the Commission on the certificate of the license issued by the Commission. Such License shall not be transferable except that it may be transferred, upon application by the owner to the Commission, from a boat

that has been destroyed or lost to a boat acquired by the owner thereof as a replacement. Not more than one Commercial Bay Shrimp Boat License and not more than one Commercial Bait-Shrimp Boat License shall be issued per licensing year for each boat.

(e) A Commercial Bay Shrimp Boat License may be issued by the Commission in some month other than January or February, in the event, and only in the event, the applicant therefor has acquired, subsequent to the last day of February of the year for which license is sought, title to a shrimp boat, either by purchase or by having a new boat constructed, and makes affidavit of such fact and also makes further affidavit that prior to said last day of February applicant had not entered into an agreement to acquire such boat.

¹ Vernon's Ann.P.C. art. 934b-2.

Taking of shrimp in inside waters

Sec. 6. (a) It shall be unlawful for any person, at any time, to take or catch, or to attempt to take or catch, shrimp of any size or species within the inside waters of the State of Texas, except as hereinafter specifically provided.

(b) It shall be unlawful for any person, at any time, to take or catch, or to attempt to take or catch, shrimp of any size or species within the natural or man-made passes leading from the inside waters to the outside waters of this State.

(c) It shall be unlawful for any person (except for catching bait-shrimp as otherwise provided herein) to take or catch, or to attempt to take or catch, in the inside waters of this State, shrimp of any size or species, or to use or operate any net or trawl in the inside waters of this State for the purpose of taking or catching, or attempting to take or catch, shrimp, except during the period beginning thirty (30) minutes before sunrise and ending thirty (30) minutes after sunset.

(d) It shall be unlawful for any person, at any time, to head any shrimp aboard a boat or vessel within the inside waters of this State, or to dump or deposit any shrimp heads in the inside waters of this State except in artificial passes, canals or basins.

(e) It shall be unlawful for any person to have on board a boat in the inside waters of Texas for use on said inside waters more than one set of trawl doors (or other spreading device) and more than one set of try-net doors, except during the period from August 15th to December 15th, both dates inclusive.

(f) It shall be lawful for any bona fide licensed commercial bay shrimp boat operator to take or catch, or to attempt to take or catch, shrimp of lawful size of any species within the major bays, as herein defined, during the period from August 15th to December 15th of each year, both dates inclusive (said period being designated as the 'open season' for any such commercial bay shrimp boat operators), provided, however:

1. During the open season for shrimping in the major bays of this State as herein provided, it shall be unlawful for any person to take or catch, or to attempt to take or catch, shrimp of any size or species in said major bays of this State with more than one (1) net, except a try net as hereinafter provided, or with a net of a size exceeding sixty-five (65) feet in width as measured along the corkline from board to board or between the extremes of any other spreading device.

2. It shall be unlawful for any person, at any time, to use, or to have in his possession, within the inside waters of this State, or on board any

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

boat or vessel within such inside waters, any try net or test net exceeding twelve (12) feet in width as measured along the corkline from board to board; and it shall be unlawful for any person (except for catching bait-shrimp or except as otherwise herein provided) to take or catch, or attempt to take or catch, any shrimp within the inside waters of this State with, or to have in possession in the State of Texas, or on board any boat or vessel within the coastal waters of this State, for use in said inside waters, any trawl and bag (other than a try net or test net) of a mesh size such that the distance between the two (2) most widely separated knots in any consecutive series of five (5) stretched meshes of said trawl or bag is less than eight and three-quarters ($8\frac{3}{4}$) inches in length after said trawl or bag has been placed in use. Such measurement shall be made in the section of said trawl which is normally under tension when in use.

(g) It shall be lawful for any bona fide commercial bay shrimp boat operator to take or catch, or to attempt to take or catch, shrimp of any size or species during the period from May 15th to July 15th, both dates inclusive, within the major bays of the inside waters of this State; provided, however:

1. It shall be unlawful for any bona fide commercial bay shrimp boat operator during said period from May 15th to July 15th to take or catch more than three hundred (300) pounds of shrimp per boat per calendar day, or to have in his possession or on board any boat on the inside waters of this State, or to unload or attempt to unload at any point in the State of Texas, more than three hundred (300) pounds of shrimp. Such shrimp shall be in their natural state with heads attached.

2. It shall be unlawful for any bona fide commercial bay shrimp boat operator during said period from May 15th to July 15th to use in said major bays of the inside waters of this State for the purpose of taking or catching, or attempting to take or catch, shrimp more than one (1) net at a time (except for a try net), or to use any net exceeding twenty-five (25) feet in width as measured along the corkline from board to board or between the extremes of any other spreading device, or to use any net or bag of a mesh size such that the distance between the two (2) most widely separated knots in any consecutive series of five (5) stretched meshes of said net or bag is less than six and one half ($6\frac{1}{2}$) inches in length after such net or bag has been placed in use.

(h) It shall be lawful for any bona fide licensed commercial bait-shrimp boat operator to take or catch, or attempt to take or catch, within the inside waters of this State, shrimp of any size or species, for use as bait only; provided, however:

1. It shall be unlawful for any such commercial bait-shrimp boat operator to take or catch more than one hundred and fifty (150) pounds of shrimp per boat per calendar day, or to have in his possession or on board any boat, or to unload or attempt to unload at any point in Texas, more than one hundred and fifty (150) pounds of shrimp. Such shrimp shall be in their natural state with heads attached.

2. It shall be unlawful for any bona fide licensed commercial bait-shrimp boat to use in the inside waters of this State, at any time, for the purpose of taking or catching, or attempting to take or catch, shrimp for bait, more than one (1) net at a time (except that one try net not exceeding five (5) feet in width as measured along the corkline from board to board may be also used) or to use any net exceeding in width twenty-five (25) feet as measured along the corkline from board to board or between the extremes of any other spreading device, or to use any net or bag of a mesh

size such that the distance between the two (2) most widely separated knots in any consecutive series of five (5) stretched meshes of said net or bag is less than six and one half (6½) inches in length after said net has been placed in use.

3. It shall be unlawful for any bona fide commercial bait-shrimp boat operator to take or catch, or attempt to take or catch, shrimp for use as bait between sunset and sunrise except during the period beginning December 16th of each year and ending August 14th of the following year, both dates inclusive. Provided, however, that bait shrimp may be taken at any time of the day or night in the waters of the Laguna Madre.

4. It shall be unlawful for any bona fide commercial bait-shrimp boat operator, at any time, to sell or unload any shrimp caught under the provisions of this Act to any person except to a bona fide bait-shrimp dealer, as that term is herein defined, or except to a sports fisherman while operating a boat or vessel on the inside waters.

**Commercial gulf shrimp boat license; fee; display; taking
of shrimp in outside waters**

Sec. 7. (a) It shall be unlawful for any commercial gulf shrimp boat to be used for the purpose of taking or catching, or assisting in taking or catching, shrimp and other edible aquatic products from the outside waters of Texas, or for any such boat which has on board fresh shrimp or other edible aquatic products caught or taken from the outside waters of this State, or from salt waters outside of this State without having been previously unloaded in some other state or foreign country, to unload, or to be permitted to unload, said shrimp and other edible aquatic products at any port or other point in Texas, without the owner thereof having first procured a license, to be known as a Commercial Gulf Shrimp Boat License, from the Commission privileging such boat to be so used or to so unload its cargo. The fee for a Commercial Gulf Shrimp Boat License shall be Thirty Dollars (\$30) and such license shall expire August 31st following the date of issuance, and said Commercial Gulf Shrimp Boat License shall include the right to use and operate all shrimp trawls and fishing gear, except fish seines or nets, with which said boat is equipped, the use of which is not otherwise prohibited by law, and said boat shall not be required to also have a 'Commercial Fishing Boat License' as provided for by Section 3 of Chapter 68 of the Acts of the Fifty-first Legislature of Texas, Regular Session, 1949,¹ or other Statutes of this State, but the captain and each paid member of the crew of said boat shall be required to have a commercial fisherman's license issued by the Commission. A metal or plastic plate or emblem of a prescribed and uniform character and of a different color or design for each year, at least thirty-two (32) square inches in size, issued by the Commission, shall be prominently displayed on the bow, outside of the wheelhouse, or at other designated point on the outside of said boat specified by the said Commission and on each side of said boat, evidencing the payment of such boat license.

(b) Such Commercial Gulf Shrimp Boat License shall be issued by the Commission only upon presentation to the Commission by the boat owner of the boat's United States Bureau of Customs official document or the Texas Certificate of number for a motor boat, and the name of the boat and the number appearing on said official document or Texas Certificate of number shall be placed by the Commission on the certificate of the Commercial Gulf Shrimp Boat License issued by the Commission. Such License shall not be transferable except that it may be transferred, upon application by the owner to the Commission, from a boat that has been destroyed or lost to a boat acquired by the owner thereof as a replacement. Not more

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

than one (1) Commerical Gulf Shrimp Boat License shall be issued per licensing year for each boat.

(c) It shall be unlawful for any person to take or catch, or attempt to take or catch, any shrimp, regardless of size or species, in any of the outside waters of the State of Texas from June 1st to July 15th, both dates inclusive, of each year; provided, however, that, based upon sound biological data, the Game and Fish Commission of Texas may, and it is hereby empowered to, change the opening and closing dates of said forty-five-day period so as to provide for an earlier period beginning not to exceed fifteen (15) days prior to June 1st or for a later period ending not to exceed fifteen (15) days after July 15th, provided further that said closed season shall always be for a period of forty-five (45) days. It shall be unlawful for any person, at any time, to possess in the State of Texas, or to have on board any boat or vessel within the coastal waters of this State, or to buy, sell, unload, transport or handle in any way, in the State of Texas, any such shrimp caught in any of the outside waters of this State during such closed season for said outside waters. Provided, however, it shall be lawful during said forty-five-day closed season for any bona fide commercial gulf shrimp boat operator to take or catch white shrimp in the outside waters of this State not exceeding a depth of four (4) fathoms; provided, however, it shall be unlawful to use more than one (1) net at a time and such trawl shall not exceed twenty-five (25) feet in width as measured along the corkline, from board to board (or any other spreading device).

(d) It shall be unlawful for any person to take or catch, or attempt to take or catch, shrimp of any size or species, in the outside waters extending from the coast line of Texas up to and including seven (7) fathoms in depth during the period beginning thirty (30) minutes after sunset and ending thirty (30) minutes before sunrise.

(e) It shall be unlawful for any person to take or catch, or attempt to take or catch, shrimp in the outside waters extending from the coast line of Texas up to and including seven (7) fathoms in depth during the period beginning December 16 of each year and ending on February 1 of the following year, both dates inclusive.

(f) It shall be unlawful for any person at any time to catch or take any shrimp within the outside waters of this State with, or to have in possession in the State of Texas or on board any boat or vessel within the coastal waters of this State, any trawl for use in said outside waters, other than a try net or test net of a mesh size such that the distance between the two (2) most widely separated knots in any consecutive series of five (5) stretched meshes of said trawl is less than eight and three quarters ($8\frac{3}{4}$) inches in length after such trawl has been placed in use. Such measurement shall be made in the section of said trawl which is normally under tension when in use. Any try net or test net used shall not exceed twelve (12) feet as measured from board to board, or between the extremes of any other spreading device.

(g) The foregoing Sections 4, 7(e) and 7(f) of this Act shall not apply to the taking or catching of seabobs; provided, however, it shall be unlawful for any commercial gulf shrimp boat operator at any time to take or catch, or attempt to take or catch, seabobs in the outside waters with more than one trawl at a time and such trawl shall not exceed twenty-five (25) feet in width as measured along the corkline from board to board (or any other spreading device), and the mesh size of said trawl shall be such that the distance between the two (2) most widely separated knots in any consecutive series of five (5) stretched meshes of said trawl shall be not less than six and one half ($6\frac{1}{2}$) inches in length after such trawl has been

placed in use. Provided, further, that it shall be unlawful for any person taking or catching seabobs under this provision to take or catch, or have on board a vessel, any other species of shrimp which shall exceed ten per cent (10%), in weight or numbers, of the entire catch.

¹Vernon's Ann.P.C. art. 934b-2.

**Possession of salt water shrimp after end of season;
use of nonconforming trawls**

Sec. 8. (a) Salt-water shrimp in their fresh state, legally taken in either the inside waters or in the outside waters of this State during the open season thereof, may be had in possession for a period of five (5) days after the end of such open season, but not thereafter except by a bona fide licensed bait dealer or sports fisherman as otherwise provided herein.

(b) All legal trawls in use or on hand at the time of the final passage of this Act which do not conform to the specifications of this Act may nevertheless be used, subject to the other specifications of this Act, not later than May 1, A.D. 1964, and not thereafter, but whenever a trawl which was in use or on hand at the final passage of this Act is replaced it shall be replaced with a trawl conforming to all of the specifications of this Act.

Shrimp house operator's license; fee

Sec. 9. It shall be unlawful for any shrimp house operator to unload or handle from any commercial gulf shrimp boat or commercial bay shrimp boat fresh shrimp or other edible aquatic products caught or taken from the coastal waters of this State, or from salt waters outside of this State and brought into this State without having been previously unloaded in some other state or foreign country, without the owner thereof having first procured a license, to be known as a Shrimp House Operator's License, from the Commission privileging such shrimp house operator to so unload or handle such fresh shrimp. The fee for a Shrimp House Operator's License shall be Fifty Dollars (\$50), and said License shall expire August 31 following the date of issuance.

Bait-shrimp dealer's license; fee; sale of fish bait

Sec. 10. (a) It shall be unlawful for any person to engage in the business of a bait-shrimp dealer, as that term is herein defined, without having first procured from the Commission a Bait-Shrimp Dealer's License for each bait stand or place of business maintained by such person. The fee for each such Bait-Shrimp Dealer's License shall be Thirty Dollars (\$30) and said License shall expire August 31 following the date of issuance. The Commission shall issue such a Bait-Shrimp Dealer's License only after said Commission has determined as far as practicable that the applicant for such Bait-Shrimp Dealer's License is a bona fide bait-shrimp dealer as that term is now or hereafter defined by law, and no Bait-Shrimp Dealer's License shall be held by any person who also holds a Shrimp House Operator's License.

(b) Such Bait-Shrimp Dealer's License shall include the right to sell, purchase and handle minnows, fish and other forms of aquatic life for the purpose of sale or resale for fish bait purposes, within the coastal counties of this State. The license for a bait dealer as provided for by Acts of 1933, First Called Session, Forty-third Legislature, Chapter 29, Section 2, and as provided for by Acts of 1933, First Called Session, Forty-third Legislature, Chapter 29, Section 3, as last amended by Acts of 1935, Forty-fourth Legislature, Regular Session, Chapter 345, and Acts of 1945, Forty-ninth Legislature, Chapter 209,¹ shall continue in full force and

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

effect as to all counties except the coastal counties of this State and as to any bait dealer in said coastal counties who do not sell or offer for sale or handle shrimp for sale or resale for bait purposes, provided, that any grocery stores in said coastal counties which do not unload or purchase shrimp directly from commercial bait-shrimp boats shall not be required to hold a Bait-Shrimp Dealer's License.

Use of cast nets, dip nets, bait traps or minnow seines; individual bait-shrimp trawl license; fee

Sec. 11. (a) It shall be lawful for any person to take or catch, or attempt to take or catch, in the coastal waters of this State, shrimp for use as bait, by the use of any "individual bait-shrimp trawl" as defined herein, a cast net, dip net, bait trap or minnow seine not larger than twenty (20) feet in length manually operated on foot only without the use of any mechanical means or devices.

(b) It shall be unlawful for any person to have in his possession or on board any boat or vessel in the coastal waters of this State any individual bait-shrimp trawl without the owner thereof having first procured a license, to be known as an "Individual Bait-Shrimp Trawl License" from the Commission privileging such trawl to be used within the coastal waters of this State; and the fee for such License shall be Three Dollars (\$3) and said License shall expire on August 31 following the date of its issuance.

(c) It shall be unlawful for any person, at any time, to use, or to have within his possession or on board any boat or vessel in the coastal waters of this State any individual bait-shrimp trawl having a mesh size such that the distance between the two (2) most widely separated knots in any consecutive series of five (5) stretched meshes of said trawl is less than eight and three-quarters ($8\frac{3}{4}$) inches in length after said trawl has been placed in use and the distance between the doors or boards or other spreading devices shall not exceed twenty (20) feet, with doors or boards not to exceed dimensions of fifteen (15) inches by thirty (30) inches each, or a total of four hundred and fifty (450) square inches each, and it shall be unlawful to have in possession or to use more than one (1) such individual bait-shrimp trawl per boat.

(d) It shall be unlawful for any person taking or catching, or attempting to take or catch, shrimp for his own use under the provisions of this Act by means of an individual bait-shrimp trawl to have within his possession or on board any boat or vessel within the coastal waters of this State more than two (2) quarts of shrimp per person, or more than four (4) quarts per boat to be used for bait purposes only; provided, however, any person may take or catch shrimp for his own personal use in an amount not to exceed one hundred (100) pounds of shrimp (in their natural state with heads attached) per day but only during the open season of the inside waters from August 15 to December 15 and of the outside waters of this State, each respectively, and an amount not to exceed fifteen (15) pounds of shrimp (in their natural state with heads attached) per day during the period May 15 to July 15, both dates inclusive, in the major bays of the inside waters only, by means of said individual bait-shrimp trawl or of said cast net, dip net, bait trap or minnow seine. Provided, further, that it shall be unlawful for any person to buy, sell, offer for sale or handle in any way for profit any shrimp so caught.

(e) It shall be lawful for any person to possess and use, until August 31, 1963, any duly tagged and licensed 'sports bait-shrimp trawl' as defined, and meeting the size and dimensions as specified, in House Bill

No. 12, Chapter 187, Acts of the Fifty-sixth Legislature of Texas, 1959,¹ known as the Texas Shrimp Conservation Act.

¹ This article.

Transporting trawls and spreading devices in coastal waters of Orange and Jefferson counties

Sec. 11A. Notwithstanding any other provision of this Act, it shall be lawful to possess or have on board any boat in the coastal waters of Orange or Jefferson County any trawl and the spreading device therefor which may be lawfully used in the coastal waters of another state, provided (1) that such trawl and equipment are immediately en route to or from a home port or destination on land, (2) that such trawl and equipment have been used during open season on shrimp in such state, and (3) that such trawl and equipment are not used or intended for use in the coastal waters of this State in violation of this Act. Added Acts 1963, 58th Leg., p. 1008, ch. 415, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Use of commercial bay-bait shrimp boat license; license fees as privilege tax; remission of moneys; use

Sec. 12. (a) Any valid "Commercial Bay-Bait Shrimp Boat License," as provided for in House Bill No. 12, Chapter 187, Acts of the Fifty-sixth Legislature of Texas, 1959,¹ which has been issued by the Commission during the months of January and February, 1963, may be used by the holder thereof in lieu of a Commercial Bay Shrimp Boat License or of a Commercial Bait-Shrimp Boat License until the first day of March A.D. 1964.

(b) The license fees provided for herein are hereby expressly declared to be a privilege tax for the privilege of taking or catching, attempting to take or catch, buying, selling, unloading, transporting or handling, in any manner, any shrimp within the jurisdiction of this State.

All moneys received from the sale of licenses provided for herein and all moneys received from penalties assessed for violation of this Act, after deduction of fees as allowed by law, shall be remitted to the Game and Fish Commission at Austin not later than the tenth day of the month following the date of collection, and shall be deposited by said Commission in the State Treasury to the credit of the Special Game and Fish Fund. The proceeds of such licenses shall be used by the Game and Fish Commission to enforce the provisions of this Act and the laws of this State relating to shrimping, salt-water fishing, oystering, and other commercial edible aquatic life.

¹ This article.

Violations and penalties

Sec. 13. (a) Any person who shall violate any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction therefor shall be, for the first offense, fined not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200); and, for the second offense, shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or be sentenced to serve not less than ten (10) days nor more than sixty (60) days in the county jail or shall be punished by both such fine and imprisonment; and, for the third and all subsequent offenses, shall be fined not less than Five Hundred Dollars (\$500) nor more than Two Thousand Dollars (\$2,000) and shall be confined in the county jail for not less than thirty (30) days nor more than six (6) months.

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

(b) Whenever a vessel is involved in the violation of any provision of this Act, without in anywise detracting from or mitigating against the presumption of innocence, the captain of said vessel may be considered primarily responsible for such violation, and each member of the crew may also be held responsible therefor, but the punishment for such violation shall be assessed only against the captain and crew members, or one or more of them, actually found to be guilty thereof. The owner of said vessel shall not be guilty of such violation unless it be also charged and proved that such owner knowingly directed, authorized, permitted, agreed to, or aided or acquiesced in such violation.

(c) Each day on which a violation occurs shall be considered, and is hereby expressly defined, declared and made a separate, distinct and new offense.

(d) Upon conviction, for the third and all subsequent offenses, of violating any provision of this Act, any and all licenses under which the operations involved in the violation are being conducted, issued by the Commission, shall automatically be cancelled, and such licenses shall not thereafter be renewed or reissued for a period of twelve (12) months from the date of conviction.

(e) It shall be unlawful for any person to operate in any manner upon any of the coastal waters of this State without having first secured the proper and appropriate license required by this Act and any person failing or refusing to secure such license shall be guilty of a misdemeanor and upon conviction shall be punished as for a violation of any other provision of this Act.

(f) It shall be unlawful for any person whose license has been cancelled as herein provided to do business without a new license or to possess another license for the prohibited period and any person violating this provision shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not less than Two Thousand, Five Hundred Dollars (\$2,500) nor more than Five Thousand Dollars (\$5,000) and shall be confined in the county jail for not less than six (6) months nor more than one (1) year.

(g) Any shrimp house operator, wholesale fish dealer, retail fish dealer, wholesale truck dealer, retail truck dealer or other person holding a license issued by the Commission who knowingly unloads, buys, or handles in any way any shrimp from an unlicensed commercial gulf shrimp boat, or unlicensed commercial bay shrimp boat, or who knowingly unloads, buys or handles in any way any shrimp of a prohibited size, or shrimp which has been caught in either the inside or outside waters of this State during the closed season of such waters, or bait shrimp in violation of any provision of this Act, or any bait shrimp dealer who knowingly unloads, buys or handles in any way from an unlicensed commercial bait-shrimp boat any bait shrimp shall be deemed guilty of a misdemeanor and upon conviction shall suffer the same penalties of fine, or imprisonment, or both fine and imprisonment, and automatic cancellation of license, as provided by this Act for the violation of other provisions of this Act.

(h) For the purposes of this Act the words 'second offense' and the words 'third and subsequent offenses' shall be construed to mean offenses for which convictions have been obtained within three (3) years prior to the date of the offense charged.

Deputies and wardens; patrol vessels or aircraft

Sec. 14. An adequate number of deputies and wardens and of patrol vessels or aircraft shall be employed by the Commission in the coastal counties and coastal waters of this State in enforcing the provisions of this Act and the laws of this State relating to shrimp, salt-water fishing, oysters, and other commercial edible aquatic life. Acts 1959, 56th Leg., p. 407, ch. 187, as amended Acts 1963, 58th Leg., p. 895, ch. 340, § 1.

Emergency. Effective May 31, 1963.

Savings Provision

Acts 1963, 58th Leg., p. 757, ch. 287, which is incorporated in the Penal Code in a note under article 978j, and which, inter alia, prohibits the taking of fish, aquatic life or marine animals from the waters within Cameron, Jim Wells, Hidalgo and Starr Counties, including the waters and abutting waters of Laguna Madre, but excluding the waters of the Gulf of Mexico, provides in section 15 that the Act shall not suspend or otherwise affect the Texas Shrimp Conservation Act, insofar as it relates to shrimping activities in outside waters of the Gulf of Mexico.

Section 2 of the amendatory act of 1963 repealed all conflicting general and special laws and parts thereof to the extent of the conflict.

Taking and possessing shrimp, see Vernon's Ann.P.C. art. 952i-11.

Transfer of confiscated marine equipment to college or university for research programs, see Vernon's Ann.P.C. art. 978f-3b.

Using nets for fish and shrimp in Matagorda Bay and Gulf of Mexico, see Vernon's Ann.P.C. art. 941-2.

TITLE 70—HEADS OF DEPARTMENTS

CHAPTER FOUR—ATTORNEY GENERAL

Art.

4413a. Acceptance or use of money to investigate or prosecute matters [New].

Art. 4405. [4424] [2897] Judgments against insolvents

If the principle and sureties upon any judgment held by the state are insolvent, so that under any existing process of law said judgment or any part thereof cannot be collected, there shall be, and is hereby constituted a Board consisting of one (1) citizen of the state appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, Comptroller and State Treasurer, who are hereby empowered and authorized by such advertising as they may deem necessary to offer for sale at public outcry, or by private sale, as they may deem to the best interest of the state, all the right of the state to such judgment; and, if by public sale, the amount bid on the same shall not be deemed sufficient, they shall refuse to accept the same, and dispose of the same in any manner deemed by them to the best interest of the state, and upon sale shall make a proper assignment of said judgment to the purchaser. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 6.

Effective 90 days after May 24, 1963, date of adjournment.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

Art. 4412. [4431] First office assistant

a. In case of the absence or inability of the Attorney General to act, the first office assistant of the Attorney General shall discharge the duties which devolve by law upon the Attorney General.

b. The Attorney General shall designate one (1) or more assistants who shall attend the meetings of any board or commission upon which the Attorney General served as an ex officio member as of the effective date of this Act when requested to do so by such Board or Commission. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 17.

Effective 90 days after May 24, 1963, date of adjournment.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

Art. 4413a. Acceptance or use of money to investigate or prosecute matters

From and after the effective date of this Act, the Attorney General shall not accept or use any money offered by any person, firm, partnership, corporation or association, for the purpose of investigating or prosecuting any matter whatsoever. Acts 1963, 58th Leg., p. 732, ch. 270, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Bribes, acceptance, see Vernon's Ann.P.C. arts. 159, 160.

CHAPTER FOUR-B—INTERSTATE CORPORATION

Art. 4413b—1. Commission established; composition; functions; Governor's Committee

Governor's Committee

Section 1. There is hereby established a committee to be officially known as the Governor's Committee on Interstate Co-operation, and to consist of six (6) members. Its members shall be: the Secretary of State, ex officio; the Attorney General, ex officio; one (1) citizen of the state, appointed by the Lieutenant Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years; one (1) citizen of the state appointed by the Speaker of the House of Representatives with the advice and consent of the Senate, who shall serve for a term of two (2) years; and two (2) other administrative officials or members of existing Commissions to be designated by the Governor. The Governor shall appoint one (1) of the six (6) 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. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 9.

Effective 90 days after May 24, 1963, date of adjournment.

Vehicle equipment safety compact, see art. 6701k.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

CHAPTER FOUR-C—SOUTHERN INTERSTATE NUCLEAR COMPACT

Art. 4413c—1. Southern Interstate Nuclear Compact

Liability insurance for operators of atomic energy reactors, see art. 4590g.

CHAPTER SEVEN—INTERAGENCY COOPERATION

Art. 4413(32). Cooperation by state departments and agencies

Official notice of federal decennial census, see art. 29d.

TITLE 71—HEALTH—PUBLIC

CHAPTER ONE—HEALTH BOARDS AND LAWS

PART C.—MISCELLANEOUS

Art.

4447d. Providing State Department of Health with data on condition and treatment of persons [New].

Art. 4414a. State department of health established

Reporting treatment of gunshot wound indicating violence, see Vernon's Ann.P.C. art. 782c.

Art. 4419c. Crippled children, restoration service for; Crippled Children's Division's powers; transfer of funds; federal funds

Rehabilitation districts for handicapped persons, see art. 2675k.

Art. 4436a—1. City-County Health Units in counties containing incorporated city

Misrepresentation of nonresident in application for medical aid from state or county hospital, see Vernon's Ann.P.C. art. 782d.

Art. 4437. Hospitals

Providing state department of health with data on condition and treatment of persons, see art. 4447d.

PART C. MISCELLANEOUS

Art. 4437e. Hospital Authority Act

Legal and authorized investments

Sec. 8a. All bonds issued under this Act, as amended, shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies of all kinds and types, and for the interest and sinking funds and other public funds of any issuer, as such term is defined in this Act. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and of any issuer, as such term is defined in this Act, to the extent of the value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto. Acts 1957, 55th Leg., p. 1379, ch. 472, § 8a added Acts 1963, 58th Leg., p. 1273, ch. 487, § 1.

Emergency. Effective June 10, 1963.
Misrepresentation of nonresident in application for medical aid from state or county hospital, see Vernon's Ann.P.C. art. 782d.

Providing state department of health with data on condition and treatment of persons, see art. 4447d.

Art. 4442a. Day nursery for care and custody of children

Providing state department of health with data on condition and treatment of persons, see art. 4447d.

Art. 4442c. Convalescent and nursing homes and related institutions

Providing state department of health with data on condition and treatment of persons, see art. 4447d.

Art. 4447c. Texas Coordinating Commission for State Health and Welfare Services

Misrepresentation of nonresident in application for medical aid from state or county hospital, see Vernon's Ann.P.C. art. 782d.

Art. 4447d. Providing State Department of Health with data on condition and treatment of persons

Section 1. Any person, hospital, sanitorium, nursing or rest home, medical society, cancer registry, or other organization may provide information, interviews, reports, statements, memoranda, or other data relating to the condition and treatment of any person to the State Department of Health, medical organizations, hospitals and hospital committees, to be used in the course of any study for the purpose of reducing morbidity or mortality, and no liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided such information or material, or by reason of having released or published the findings and conclusions of such groups to advance medical research and medical education, or by reason of having released or published generally a summary of such studies.

Sec. 2. The State Department of Health, medical organizations, hospitals and hospital committees shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances. All information, interviews, reports, statements, memoranda, or other data furnished by reason of this Act and any findings or conclusions resulting from such studies are declared to be privileged. Acts 1963, 58th Leg., p. 943, ch. 372.

Effective 90 days after May 24, 1963, date of adjournment.

Discovery and production of documents and things for inspection, copying or photographing, see Vernon's Texas Rules of Civil Procedure, Rule 167.

CHAPTER THREE—FOOD AND DRUGS

Art.

4476—5. Texas Food, Drug and Cosmetic Act [New].

Art. 4476—5. Texas Food, Drug and Cosmetic Act

Federal prosecutions as bar to state prosecutions; abatement of proceedings

Sec. 22A. (a) Prosecution had or pending by the Federal Government, or any of its agents, involving the first processing of agricultural products, against any person subject to federal jurisdiction in such matters, for criminal or civil penalties, shall constitute complete defense against prosecution by the State of Texas, or any of its agencies, against such person for violation of any provision of this Act involving substan-

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tially the same facts and same subject matter as involved in such federal proceedings, regardless of similarity or dissimilarity as between the sanctions and penalties of the federal and state statutes or regulations, and regardless of the result of such federal prosecution or procedure.

(b) Proceedings pending or in active preparation through which the Federal Government seeks confiscation, destruction, decontamination, condemnation, or mutation of agricultural products subject to such federal controls or procedures and subject to controls established in this Act, upon appropriate pleading will serve as abatement of any proceedings or cause of action for the same purpose involving the same person, or persons, and the same subject matter that may be brought by the State of Texas, or any of its agencies, through court or administrative proceedings.

(c) Compliance in good faith by any person subject to federal jurisdiction in such matters, with orders, directives or judgments issued or secured by or at the instance of the Federal Drug Administration, or any other federal agency, in respect to the acquirement, use, or operation of any product, process, plant, device, or machinery, used or useful in the first processing of agricultural products, shall constitute a bar to any criminal, civil, or administrative procedure brought by or at the instance of the Commissioner of Health, or other state agency, under or by virtue of provisions of this Act, to the extent that such state procedure may duplicate, overlap, or conflict with such federal orders, directives, or judgment.

(d) The provisions of this Section shall apply only to the business activity of cotton seed crushing and processing and to only those persons who are engaged in interstate commerce and subject to both federal and state inspection. Provided further, that the provisions of this Section shall apply only to situations where there is a conflict in the federal and state laws. Added Acts 1963, 58th Leg., p. 1176, ch. 461, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Registration statement of wholesalers and distributors; contents; fees; revocation or suspension of registration

Sec. 23. 1. No person shall hereinafter engage or continue to engage in the wholesale drug business in this State without first filing a registration statement with the Commissioner of Health. For the purposes of this Act, the words "wholesale drug business" shall be defined as meaning persons engaged in the business of wholesale distribution of drugs and medicines bearing the legend: "Caution: Federal law prohibits dispensing without prescription."

2. The registration statement, which shall be signed and verified, shall be made on such forms as shall be furnished by the Commissioner of Health and shall provide the following information:

(a) The name under which the business is conducted.

(b) The address of each place of business in the State being registered.

(c) If proprietorship, the name and resident address of the proprietor; if a partnership, the names and resident addresses of all partners; if a corporation, the date and place of incorporation; or if any other type of association, then the names and addresses of the principals of such association.

(d) The names and resident addresses of those individuals in actual administrative capacity which, in the case of proprietorship, shall be the

managing proprietor; partnership, the managing partner; corporation, the officers and directors; or those in a managerial capacity in any other type of association.

(e) For each place of business in the State, the resident address of the individuals in charge thereof.

3. The registration statement shall be filed within ninety (90) days after the effective date of this Act or prior to commencing business as a wholesale drug company and annually thereafter on or before the first day of September in each calendar year.

4. The initial and annual fee for registration which shall accompany the registration statement shall be Ten Dollars (\$10) for a single place of business and Five Dollars (\$5) for each additional place of business listed thereon.

5. In the event the location of a registered place of business shall be changed, the registrant shall notify the Commissioner of Health, in writing, of the address of such new location and the name and resident address of the individual in charge thereof. The fee to accompany such notification shall be Five Dollars (\$5) unless it shall appear to the satisfaction of the Commissioner of Health that the change of location is of a temporary nature due to fire, flood or other disaster.

6. The Commissioner of Health may, after notice and hearing, cancel, revoke or suspend the registration of any wholesale drug company for any of the following reasons:

(a) If the registrant has been convicted of a felony or misdemeanor which involves moral turpitude, or if the registrant be an association, partnership or corporation, that the managing officer has been convicted of a felony or misdemeanor which involves moral turpitude;

(b) That the registrant has been convicted in either a State or Federal court for the illegal use, sale, or transportation of intoxicating liquors, narcotic drugs, barbiturates, amphetamines, desoxyephedrine, their compounds or derivatives, or any other habit-forming drugs, or if the registrant be an association, partnership, or corporation, that the managing officer has been convicted in either State or Federal court of the illegal use, sale, or transportation of intoxicating liquors, narcotic drugs, barbiturates, amphetamines, desoxyephedrine, their compounds or derivatives, or any other dangerous or habit-forming drugs;

(c) That the registrant has sold counterfeit drugs and medicines, or has sold without prescription drugs and medicines bearing the legend: 'Caution: Federal law prohibits dispensing without prescription' to persons other than those entitled to possession of them under Section 5, Article 725b, Vernon's Penal Code of the State of Texas.

7. Any registrant whose registration has been cancelled, revoked or suspended by the Commissioner of Health pursuant to the preceding Section shall have the right to appeal to a court of competent jurisdiction in his county of residence. Such appeal shall be de novo as appeals from justice courts to county courts, and the substantial evidence rule shall not apply.

8. Any person who engages or continues to engage in the wholesale drug business without having first complied with requirements of this Section shall be guilty of a misdemeanor and shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

9. Any person engaged in the wholesale drug business who has in his possession drugs and medicines bearing the legend: "Caution: Federal

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law prohibits dispensing without prescription" who has not complied with the requirements of this Section by being registered with the Commissioner of Health shall be fined an amount not exceeding Three Thousand Dollars (\$3,000) or confined in jail for a period of not less than thirty (30) days nor more than two (2) years or by both such fine and imprisonment. For any second or subsequent violation of this Section, any person so violating the same shall be confined in the penitentiary not less than two (2) years nor more than ten (10) years; provided that upon any second or subsequent conviction the benefits of the suspended sentence law shall not be available to a defendant convicted for such a violation of the provisions of this Section; provided further that any person convicted of any second or subsequent violation of this Section shall be entitled to the benefits of probation under the Adult Probation and Parole Law, as provided therein.

10. The fees provided for in Subsections 4 and 5 shall be deposited in the State Treasury to the Food and Drug Registration Fee General Revenue account and shall be available for carrying out the provisions of this Act. Added Acts 1963, 58th Leg., p. 1260, ch. 484.

¹ Vernon's Ann.C.C.P. art. 781b.

Effective 90 days after May 24, 1963, date of adjournment.

City inspection of food and drugs, see art. 1015(5).

Narcotic drug regulations, sale on written orders, see Vernon's Ann.P.C. art. 725b, § 5.

Seizure and destruction of unwholesome food, see Vernon's Ann.C.C.P. art. 109.

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

Unwholesome food, drink or medicine, see Vernon's Ann.P.C. art. 710 et seq.

CHAPTER FIVE—COUNTY HOSPITAL

Art.		Art.	
4494q—6a.	West Columbia—Brazoria and Damon Hospital District [New].	4494q—14.	Caprock Hospital District [New].
4494q—7.	Hopkins County Hospital District [New].	4494q—15.	North Wheeler County Hospital District [New].
4494q—8.	Stonewall County Hospital District [New].	4494q—16.	South Wheeler County Hospital District [New].
4494q—9.	Jasper Hospital District [New].	4494q—17.	Titus County Hospital District [New].
4494q—10.	Tyler County Hospital District [New].	4494q—18.	West Coke County Hospital District [New].
4494q—11.	Mid-Crosby County Hospital District [New].	4494q—19.	Booker Hospital District [New].
4494q—12.	Archer County Hospital District [New].	4494q—20.	Hospital District in Jefferson County [New].
4494q—13.	Sweeny Hospital District [New].	4494q—21.	Brooks County Hospital District [New].
		4494r.	County Hospital Authority Act [New].

Art. 4494n. County hospital districts; counties of 190,000 and Galveston County

Cumulative powers

Sec. 5b. The Board of Managers, with the approval of the Commissioners Court, shall have the power:

(a) To construct, condemn and purchase, purchase and acquire, lease, add to, maintain, operate, develop and regulate, sell, exchange and convey any and all lands, property, property rights, equipment, hospital facilities and systems for the maintenance of hospitals, buildings, structures,

and any and all other facilities and services the hospital district may require or may have available to sell, lease or exchange;

(b) To further effectuate such powers, the Board of Managers, with the approval of the Commissioners Court, may cooperate and contract with the United States government, the State of Texas, any municipality or other hospital district, or any department of those governing bodies, or with any privately owned or operated hospital, corporate or otherwise, which privately owned or operated hospital is situated in the hospital district; provided, in the opinion of the Board of Managers and of the Commissioners Court, such a contract is deemed expedient and advantageous to the hospital district under existing circumstances, and be for such fair and reasonable compensation and on such other terms and for such length of time as may be deemed to further and assist the hospital district in performing its duty to provide medical and hospital care to needy inhabitants of the county.

(c) This amendment to Chapter 266, Acts of the 53rd Legislature, Regular Session, as amended (Article 4494—n, Vernon's Annotated Civil Statutes as amended), shall be considered and construed as more specifically expressing certain existing powers and cumulatively granting certain other powers to hospital districts created or which may be created under such Act. Added Acts 1963, 58th Leg., p. 496, ch. 181, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 4494q—4. Hospital districts in Ochiltree, Hansford and Castro Counties

Purpose

Section 1. Upon the adoption of Article IX, Section 11, as a part of the Constitution of the State of Texas, as proposed by Senate Joint Resolution No. 22 of the 57th Legislature, Regular Session, 1961, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of three (3) hospital districts within the State of Texas, each district to have boundaries coextensive with the boundaries of one of the following counties, to wit: Ochiltree, Hansford, and Castro; each of which districts shall have the powers and responsibilities provided by the aforesaid constitutional provision. As amended Acts 1963, 58th Leg., p. 484, ch. 173, § 1.

Emergency. Effective May 18, 1963.

Acts 1963, 58th Leg., p. 484, ch. 173, § 2, provided: "The organization and creation of Hospital Districts created or voted to be created by authority of Chapter 103, Acts of the 57th Legislature, Regular Session, 1961, and heretofore established or attempted to be established by the Commissioners Court of the county to which said law applies are hereby ratified, validated and confirmed in all respects to the same extent and to like effect as if duly and legally established in the first instance. All acts of the Commissioners Court of the counties of such districts in ordering an election or elections, submitting to a vote of the resident qualified property taxpaying voters who had duly rendered their property for taxation, the proposition of whether or not a hospital district with boundaries coexistent with the limits of the county should be created and established with authority to levy a tax not

to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100) valuation; and providing for the assumption by such district of all outstanding bonds heretofore issued by such county, and by any city in said city for hospital purposes, are hereby validated and confirmed. Such election or elections and all acts of the Commissioners Court in such counties in declaring the results thereof are hereof ratified, validated and confirmed. The fact that by inadvertence or oversight any act was omitted by the Commissioners Court or any official of any such county in ordering an election or elections or in giving sufficient statutory notice thereof or in declaring the results thereof shall in no wise invalidate any of such proceedings or the creation of the hospital district sought to be created by such proceedings, provided, however, that the provisions of this Section 2 shall not apply to validate any hospital district which on

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the effective date of this Act is involved in litigation in any district court of this state, the Court of Civil Appeals, or the Supreme Court of Texas, at the effective date of this Act, in which litigation the validity of the organization or creation of such hospital district is attacked, if such litigation is ultimately determined against the validity of the organization or creation of the hospital district."

Amendment of Const. art. 9, § 9, proposed by S.J.R. No. 22, 57th Leg., 1961, was adopted at the general election Nov. 6, 1962.

Art. 4494q—5. Wichita County Hospital District

Creation of District

Sec. 3. Wichita County is hereby given authority to create a hospital district to be known as Wichita County Hospital District with boundaries coextensive with the boundaries of Wichita County, and said District, if established, shall be for the purpose of operating the hospital facilities now known as the Wichita General Hospital, and such additional facilities as may be provided in the future, and to set up a procedure to furnish medical and hospital care to indigent persons residing in said Hospital District, provided that the District shall not be established unless and until an election is duly held in Wichita County for such purpose upon the following conditions:

The County Judge of Wichita County shall order an election held not less than thirty (30) days nor more than ninety (90) days after a petition signed by a minimum of five hundred (500) resident qualified tax-paying voters of Wichita County is presented to the said County Judge requesting such election. At said election there shall be submitted to the qualified property taxpaying voters of the District the proposition for the creation of the Hospital District, and a majority of the qualified property taxpaying voters participating in said election voting in favor of the proposition shall be necessary. The ballots at such election shall have printed thereon the following:

" FOR the creation of a Wichita County Hospital District and authorizing the levy of a tax of _____ cents on the one hundred dollar valuation of taxable property in the District and for the assumption by the Hospital District of outstanding bonds theretofore issued by the County of Wichita and the City of Wichita Falls, Texas, for hospital purposes."

" AGAINST the creation of a Wichita County Hospital District and authorizing the levy of a tax of _____ cents on the one hundred dollar valuation of taxable property in the District and for the assumption by the Hospital District of outstanding bonds theretofore issued by the County of Wichita and the City of Wichita Falls, Texas, for hospital purposes."

The petition which is presented to the County Judge requesting such election shall specify the tax rate to be inserted in the propositions printed on the ballot, but in no case shall same exceed seventy-five cents (75¢) per one hundred dollar valuation.

The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, provided said maximum rate shall not exceed seventy-five cents (75¢) per one hundred dollar valuation. As amended Acts 1963, 58th Leg., p. 1276, ch. 491, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Management of the District

Sec. 4. In the event such election results favorably to the creation of the Hospital District, it shall be governed by a Board of Directors of the Wichita County Hospital District. The Board shall consist of seven (7) members who shall serve without pay. Each Director must be a resident of the District and must own land subject to taxation within the District and must be at the time of such election or appointment more than twenty-one (21) years of age. Said Board shall be selected in the following manner:

(a) In the first even-numbered calendar year after the creation of the District, there shall be elected one Director from each County Commissioners Precinct in Wichita County, which places shall carry the same number as the Precinct, and three (3) Directors from the District at large, which positions shall be designated as Place 5, Place 6 and Place 7. Only qualified electors residing in each County Commissioners Precinct shall be eligible to vote for the Director to be elected from that Precinct. All qualified electors residing in the County shall be eligible to vote for the three (3) Directors to be elected from Place 5, Place 6 and Place 7. The term of office of each Director shall be two (2) years, beginning on the first day of January following his election.

(b) Members of the existing Board of Directors of the Wichita General Hospital shall serve as interim directors until the first election shall be had and shall establish the procedure for filing for said Board. The date of the first election shall be the first Tuesday after the first Monday in November of the first even-numbered calendar year after the creation of the District, and succeeding elections shall be on the first Tuesday after the first Monday in November of each even-numbered calendar year thereafter. After said election, the elected Board of Directors shall have authority to set the procedure of said subsequent elections. Provided, however, that unless the first election called for by the provision hereof will occur within one hundred and eighty (180) days of the creation of such District, then in such event the interim directors shall call a special election for the election of a Board of Directors to serve until the first day of January following the election of a Board of Directors at the next regular election provided herein. Such special election shall be set not less than thirty (30) days nor more than sixty (60) days after the creation of such District.

(c) All vacancies in the Board of Directors of said District shall be filled through appointment by the remaining Board members for the unexpired term in the position vacated.

(d) At the first regular meeting following each election, the Board of Directors shall select one of its members as president and one of its members as secretary of said District. The Board of Directors shall have the power to establish rules of procedure for its meetings.

(e) At all meetings of said Board of Directors, at least four (4) Directors shall constitute a quorum. Any act by said Board of Directors shall require the affirmative vote of at least four (4) of the members of said Board. As amended Acts 1963, 58th Leg., p. 1276, ch. 491, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Assumption of City and County Assets and Indebtedness

Sec. 5. All lands, buildings and equipment that at the time of creation of the District were owned jointly by the City of Wichita Falls and

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the County of Wichita, and which were acquired for the purpose of providing hospital service or care for indigent patients of Wichita County shall become the property of the Wichita County Hospital District, and the Board of Aldermen of the City of Wichita Falls shall provide by ordinance and the Commissioners Court of Wichita County shall provide by order that all property so owned shall be conveyed to the Wichita County Hospital District in consideration of the Hospital District assuming all debts and obligations arising from the acquisition, construction and operation of the Wichita General Hospital or other existing hospital facilities. The Hospital District, through its Board of Directors, shall by resolution accept said properties and shall assume all of the liabilities and obligations, including bonds and warrants, of such County and City.

All lands, buildings and equipment comprising what is known as the Wichita County Farm shall not be included among the properties which are so acquired by the Hospital District under this Section. As amended Acts 1963, 58th Leg., p. 1276, ch. 491, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Issuance of Bonds; Levy of Tax

Sec. 6. The Board of Directors of the Hospital District shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such Hospital District for the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same for the hospital or hospital system, as such system may be defined by the Board, and for any or all of such purposes; and at the time of issuance of any such bonds a tax shall be levied by the Board sufficient to create an interest and sinking fund to pay the interest on and principal of such bonds as same mature, provided said tax, together with any other taxes levied for said District, shall not exceed seventy-five cents (75¢) on each One Hundred Dollar (\$100) valuation of taxable property in any one (1) year. Such bonds shall be executed in the name of the Hospital District and in its behalf by the President of the Board and attested by the Secretary and shall be subject to the same requirements in the matter of approval by the Attorney General of the State of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bonds shall be issued by such Hospital District, except refunding bonds, until authorized by a majority vote of the legally qualified property taxpaying voters residing in such Hospital District who own taxable property situated therein which has been duly rendered for taxation, voting at an election called and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended. Such election shall be called by the Board of Directors except as otherwise provided herein and shall be conducted in accordance with the General Laws of Texas pertaining to such elections. The Hospital District shall make provision for the payment of all costs of such elections.

In the manner hereinabove provided, the bonds of such District may, without the necessity of an election, be issued for the purpose of refunding and paying off any bonded indebtedness theretofore assumed or issued by such Hospital District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding

bonds or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and unpaid interest matured thereon; provided the interest cost on such refunding bonds, computed in accordance with recognized standard bond interest costs tables, shall not exceed the interest cost so computed upon the bonds to be refunded. In the foregoing computations, any premiums required to be paid upon the bonds to be refunded as a condition to payment in advance of their stated maturity dates shall be taken into account and added to the net interest cost to the Hospital District of the refunding bonds.

If the County of Wichita and/or the City of Wichita Falls has voted bonds to provide hospital facilities, but such bonds have not been sold at the date of the creation of the Hospital District, the authority for such bonds shall be canceled, and they shall not be sold.

The Board of Directors shall have the power and authority and it shall be its duty to levy taxes on all property, subject to taxation within the District, and said levy shall be made at the same time taxes are levied for County purposes. The Board of Directors shall use the assessed values of Wichita County, and shall have the authority to contract with the Commissioners Court of Wichita County for the assessment and collection of taxes, and to pay for such services, not to exceed one and one half per cent (1½%) of all taxes assessed and collected by Wichita County for the benefit of Wichita County Hospital District. Taxes may be levied for the following purposes: (1) pay the interest on and creating a sinking fund for bonds which may have been assumed by the District or which may be issued by the District for hospital purposes, (2) to provide for the operation and maintenance of the hospital or hospital system, (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary land therefor by purchase, lease or eminent domain.

The Board of Directors shall have the authority to levy the tax in the year in which the said District is established for the purpose of securing funds to initiate the operation of the District and to pay the amounts due on any assumed indebtedness. As amended Acts 1963, 58th Leg., p. 1276, ch. 491, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 4494q—6. Hospital district in Brazoria County

Conditional Enactment

This article, which authorized the Commissioners Court of Brazoria County to establish certain hospital districts, was enacted by Acts 1961, 57th Leg., p. 1157, ch. 524, subject to adoption of an amendment of Const. art. 9, § 10(a), proposed by House Joint Resolution No. 70, 57th Legislature (Laws 1961, p. 1318).

The proposed constitutional amendment was submitted to the voters at the general election on November 6, 1962, but was not adopted. Accordingly, article 4494q—6 did not become operative and the text is omitted.

Art. 4494q—6a. West Columbia—Brazoria and Damon Hospital District

Creation of district; boundaries

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a hospital district within the State of Texas, to be known as the West Columbia-Brazoria and Damon Hospital District. The District shall have the rights, powers and duties as are herein prescribed. The boundaries of the District shall be coterminous with the Damon Independent School District and the West Columbia-Brazoria Independent School District except the following described property which formerly comprised the "old Brazoria School District" prior to February 28, 1959, to wit:

BEGINNING on the Brazos River, at the mouth of Buffalo Camp Bayou;

THENCE up Buffalo Camp Bayou to a point due East of the Southeast corner of the J. P. Coles Survey;

"THENCE West to said Southeast corner of said J. P. Coles Survey, and continuing West along the South line of said Survey to where said line intersects Middle Bayou;

"THENCE up Middle Bayou to its intersection with the North line of the Asa Mitchell $\frac{1}{2}$ League;

"THENCE West along said North line of said Mitchell $\frac{1}{2}$ League to the center of the bed of the Brazos River;

"THENCE downstream along the center of the bed of the Brazos River with its meanders to a point in the center of said river from which line drawn due South will reach a point on the North line of the James Cummings Survey, one mile west from the northeast corner of said Cummings Survey;

"THENCE due South to such point on the North line of said Cummings Survey;

"THENCE west along the north line of said Cummings Survey to the East bank of the San Bernard River;

"THENCE down the East bank of the San Bernard River to a point directly East of the Southeast corner of the Jno. Cummings Survey;

"THENCE West to the center of the bed of the San Bernard River;

"THENCE downstream along the center of the bed of the San Bernard River with its meanders to a point 100 feet in a Southeasterly direction from the Churchill bridge over the San Bernard River;

"THENCE in a Northeasterly direction to the Northwest corner of the Palmer tract of land located near the Clemens State Farm Sugar Refinery;

"THENCE North to a point on the North boundary line of the John McNeel League;

"THENCE East along said line to the Northeast corner of said McNeel League;

"THENCE north along the East line of the Wm. Cummings Survey to its Northeast corner;

"THENCE due North across the S. F. Austin $7\frac{1}{3}$ Leagues to the center of the bed of the Brazos River;

"THENCE downstream along the center of the bed of the Brazos River with its meanders to a point opposite the mouth of Buffalo Camp Bayou;

"THENCE East to the East Bank of the Brazos River and also the center of the mouth of Buffalo Camp Bayou, the place of BEGINNING."

Purpose of district; election; ballots

Sec. 2. The Hospital District herein authorized to be created, shall provide for the establishment of a hospital system to furnish medical and hospital care to persons residing in said Hospital District by the purchase, construction, acquisition, repair or renovation of buildings and improvements; and the equipping of same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants. Such Hospital District shall not be created nor shall such tax therein be authorized unless and until such creation and such taxes are approved by a majority of the qualified property taxpaying electors of the District voting in an election called for such purpose. Such election may be initiated by the Commissioners Court of Brazoria County upon its own motion or upon a petition of one hundred (100) resident qualified property taxpaying electors, residing within the boundaries of the proposed Hospital District, to be held not less than thirty (30) nor more than sixty (60) days from the time said election is ordered by the Commissioners Court.

The order calling the election shall specify the time and place or places of holding same, the form of ballot and the presiding judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors the proposition of whether or not West Columbia-Brazoria and Damon Hospital District shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting in said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR the creation of a Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation, and using Brazoria County, Texas, values and the Brazoria County, Texas, tax roll"; and

"AGAINST the creation of a Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation, and using Brazoria County, Texas, values and the Brazoria County, Texas, tax roll."

Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in West Columbia-Brazoria and Damon Hospital District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election.

The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

Board of directors; officers

Sec. 3. Within ten (10) days after such election is held the Commissioners Court in such County shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition, the Court shall so find and declare the Hospital District established and created and appoint five (5) persons as Directors of the Hospital District to serve until the first

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Saturday in April following the creation and establishment of the District at which time five (5) Directors shall be elected. The three (3) Directors receiving the highest vote at such first election shall serve for two (2) years, the other two (2) Directors shall serve for one year. Thereafter, all Directors shall serve for a period of two (2) years and until their successor has been duly elected or appointed and qualified.

No person shall be appointed or elected as a member of the Board of Directors of said Hospital District unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age. Each member of the Board of Directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said District conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the District for safekeeping.

The Board of Directors shall organize by electing one of their number as president and one of their number as secretary. Any three (3) members of the Board of Directors shall constitute a quorum and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the District. All vacancies in the office of Director shall be filled for the unexpired term by appointment of the remainder of the Board of Directors. In the event the number of Directors shall be reduced to less than three (3) for any reason, the remaining Directors shall immediately call a special election to fill said vacancies, and upon failure to do so a district court may, upon application of any voter or taxpayer of the District, issue a mandate requiring that such election be ordered by the remaining Directors.

A regular election of Directors shall be held on the first Saturday in April of each year and notice of such election shall be published in a newspaper of general circulation in the County one time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for Director shall file a petition, signed by not less than twenty-five (25) qualified voters asking that such name be printed on the ballot, with the secretary of the Board of Directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election.

Management and control of district

Sec. 4. The management and control of each Hospital District created pursuant to the provisions of this Act is hereby vested in the Board of Directors of the District who shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the entire Board of Directors.

Levy and collection of taxes

Sec. 5. Upon the creation of such Hospital District, the Board of Directors shall have the power and authority and it shall be their duty to levy on all property subject to hospital district taxation for the benefit of the District at the same time taxes are levied for county purposes, using the county values and the county tax roll, a tax of not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within the Hospital District, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which may be issued by the Hospital District for hospital purposes as herein provided; (2) providing for the operation and maintenance of the Hospital District and hos-

pital system; and (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

Not later than October 1 of each year, the Board of Directors shall levy the tax on all taxable property within the District which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of the County in which the District is located. The tax so levied shall be collected on all property subject to hospital district taxation by the assessor and collector of taxes for the County on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the Hospital District the fees for assessing and collecting the tax at the rate of not exceeding one per cent (1%) of the amounts collected as may be determined by the Board of Directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one fiscal year. Such fees shall be deposited in the County's general fund, and shall be reported as fees of office of the tax assessor and collector.

Interest and penalties on taxes paid to the Hospital District shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District depository; and such funds shall be withdrawn only as provided herein. All other income of the Hospital District shall be deposited in like manner with the District depository.

The Board of Directors shall have the authority to levy the tax aforesaid for the entire year in which the said Hospital District is established, for the purpose of securing funds to initiate the operation of the Hospital District.

Authorization of bonds

Sec. 6. The Board of Directors shall have the power and authority to issue and sell as the obligations of such Hospital District, and in the name and upon the faith and credit of such Hospital District, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures providing said tax together with any other taxes levied for said District shall not exceed seventy-five cents (75¢) in any one year. Such bonds shall be executed in the name of the Hospital District and on its behalf by the president of the Board of Directors, and countersigned by the secretary of the Board, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this State. Upon the approval of such bonds by the Attorney General of Texas and registration by the Comptroller the same shall be incontestable for any cause. No bonds shall be issued by such Hospital District (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying electors, residing in such Hospital District, voting at an election called and held for such purpose. Such election may be called by the Board of Directors on its own motion, and the order calling said election shall specify the date of the election, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest rate (not to exceed six per cent (6%) per annum) and the maximum maturity date of such bonds (not to ex-

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ceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such county once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The cost of such election shall be paid by the Hospital District.

The bonds of the District may be made optional for redemption prior to their maturity date at the discretion of the Board of Directors.

The District may without an election issue the bonds to refund and pay off any validly issued and outstanding bonds heretofore issued by the District, provided any such refund bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

Purchases and expenditures; books and records; rules and regulations

Sec. 7. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures by and for such Hospital District, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for such District; and may employ a general manager, attorney, bookkeeper, architect, and any other employees deemed necessary for the efficient operation of the Hospital District.

All books, records, accounts, notices and minutes and all other matters of the District and the operation of its facilities shall, except as herein provided, be maintained at the office of the District and there be open to public inspection at all reasonable hours.

The Board of Directors is specifically empowered to adopt rules and regulations governing the operation of such District and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the Board of Directors, be published in booklet or pamphlet form at the expense of the District and may be made available to any taxpayer upon request.

Fiscal years; audit; annual budget

Sec. 8. The fiscal year of the Hospital District authorized to be established by the provisions hereof shall commence on October 1 of each year and end on the 30th day of September of the following year. The District Directors shall cause an annual independent audit to be made of the books and records of the District, such audit to be made covering such fiscal year, and the same shall be filed with the Comptroller of Public Accounts of the State of Texas and at the office of the District not later than December 31st of each year.

The Board of Directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the County at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the District shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show

the amount of taxes required to be levied and collected during such fiscal year and upon final approval of the budget, the Board of Directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

Eminent domain

Sec. 9. A Hospital District organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said District, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by paragraph No. 2 in Article 3268, Vernon's Annotated Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said District, the District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

District depository

Sec. 10. Within thirty (30) days after appointment and qualification of the Board of Directors of a Hospital District, the said Directors shall by resolution designate a bank or banks within the County in which the District is located as the District's depository or treasurer and all funds of the District shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years until a successor has been named.

Inspection of district

Sec. 11. The Hospital District established or maintained under provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) that may hereafter be created, and resident officers shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the Hospital District.

District alone to incur indebtedness for hospital purposes

Sec. 12. Except as herein provided, Brazoria County, or any city or town within the Hospital District, shall not levy any tax against any property within the Hospital District for hospital purposes; and such Hospital District shall assume full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said Hospital District from the date that taxes are collected for the Hospital District.

Patients; inquiry as to ability to pay; liability of relative

Sec. 13. Whenever a patient residing in the Hospital District has been admitted to the facilities of the Hospital District, the Directors shall

cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If they find that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the Hospital District for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The District shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the District to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the Hospital District. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the District's Directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the District Court by either party to the dispute.

Donations

Sec. 14. Said Board of Directors of the Hospital District is authorized on behalf of said Hospital District to accept donations, gifts and endowments for the Hospital District to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of Hospital District.

Bonds eligible for investment and to secure deposits

Sec. 15. All bonds issued by or assumed by the Districts authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Suits

Sec. 16. The Hospital District created under the provisions of this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this State in the name of such District.

Violation of constitutions; alternative procedures; partial invalidity

Sec. 17. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the District or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the District and enacted

the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

Publication of notice

Sec. 18. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1963, 58th Leg., p. 808, ch. 310.

Emergency. Effective May 30, 1963.

Art. 4494q—7. Hopkins County Hospital District

Amendment of Const. art. 9, § 9, proposed by S.J.R. No. 22, 57th Leg., 1961, was adopted at the general election Nov. 6, 1962.

Art. 4494q—8. Stonewall County Hospital District

Creation of district

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a hospital district within the State of Texas, this district to have boundaries coextensive with the boundaries of Stonewall County, Texas, to be known as Stonewall County Hospital District. This District shall have the rights, powers, and duties as are hereinafter prescribed.

Hospital system; tax; rate; election; petition and order; ballots

Sec. 2. The Hospital District herein authorized to be created, shall provide for the establishment of a hospital system to furnish medical and hospital care to persons residing in said Hospital District by the purchase, construction, acquisition, repair or renovation of buildings and improvements; and the equipping of same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants. Such Hospital District shall not be created nor shall such tax therein be authorized unless and until such creation and such taxes are approved by a majority of the qualified property taxpaying electors of the District voting in an election called for such purpose. Such election may be initiated by the Commissioners Court of Stonewall County upon its own motion or upon a petition of one hundred (100) resident qualified property taxpaying electors, residing within the boundaries of the proposed Hospital District, to be held not less than thirty (30) nor more than sixty (60) days from the time said election is ordered by the Commissioners Court.

The order calling the election shall specify the time and place or places of holding same, the form of ballot and the presiding Judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors the proposition of whether or not Stonewall County Hospital District shall be created with authority to levy annual taxes at a rate not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting in said election in favor of the proposition

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shall be sufficient for its adoption. The ballots shall have printed thereon the following:

“FOR the creation of a hospital district; providing for the levy of a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars valuation, and using Stonewall County, Texas, values and the Stonewall County, Texas, tax roll; and

“AGAINST the creation of a hospital district; providing for the levy of a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars valuation, and using Stonewall County, Texas, values and the Stonewall County, Texas, tax roll.”

Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in Stonewall County Hospital District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election.

The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

Canvass of returns; directors of district; appointment; terms of office; bond; officers

Sec. 3. Within ten (10) days after such election is held the Commissioners Court in such County shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition, the Court shall so find and declare the Hospital District established and created and appoint five (5) persons as directors of the Hospital District to serve until the first Saturday in April following the creation and establishment of the District at which time five (5) directors shall be elected. The three (3) directors receiving the highest vote at such first election shall serve for two (2) years, the other two (2) directors shall serve for one year. Thereafter, all directors shall serve for a period of two (2) years and until their successor has been duly elected or appointed and qualified. No person shall be appointed or elected as a member of the board of directors of said Hospital District unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age. Each member of the board of directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said District conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the District for safekeeping.

The board of directors shall organize by electing one (1) of their number as president and one (1) of their number as secretary. Any three (3) members of the board of directors shall constitute a quorum and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the District. All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the board of directors. In the event the number of directors shall be reduced to less than three (3) for any reason, the remaining directors shall immediately call a special election to fill said vacancies, and upon failure to do so a district court may, upon application of any voter or taxpayer of the District, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election of directors shall be held on the first Saturday in April of each year and notice of such election shall be published in a news-

paper of general circulation in the County one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition, signed by not less than twenty-five (25) qualified voters asking that such name be printed on the ballot, with the secretary of the board of directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election.

Management and control of district

Sec. 4. The management and control of each Hospital District created pursuant to the provisions of this Act is hereby vested in the board of directors of the District who shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the entire board of directors.

Tax levy

Sec. 5. Upon the creation of such Hospital District, the board of directors shall have the power and authority and it shall be their duty to levy on all property subject to hospital district taxation for the benefit of the District at the same time taxes are levied for County purposes, using the County values and the County tax roll, a tax of not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars valuation of all taxable property within the Hospital District, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which may be issued by the Hospital District for hospital purposes as herein provided; (2) providing for the operation and maintenance of the Hospital District and hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

Not later than October 1st of each year, the board of directors shall levy the tax on all taxable property within the District which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of the county in which the District is located. The tax so levied shall be collected on all property subject to hospital district taxation by the assessor and collector of taxes for the county on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the Hospital District the fees for assessing and collecting the tax at the rate of not exceeding one per cent (1%) of the amounts collected as may be determined by the board of directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one (1) fiscal year. Such fees shall be deposited in the county's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the Hospital District shall be the same as in the case of county taxes. Discounts shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District depository; and such funds shall be withdrawn only as provided herein. All other income of the Hospital District shall be deposited in like manner with the District depository.

The board of directors shall have the authority to levy the tax aforesaid for the entire year in which the said Hospital District is established, for the purpose of securing funds to initiate the operation of the Hospital District.

Issuance of bonds

Sec. 6. The board of directors shall have the power and authority to issue and sell as the obligations of such Hospital District, and in the name and upon the faith and credit of such Hospital District, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures providing said tax together with any other taxes levied for said District shall not exceed Seventy-five Cents (75¢) in any one (1) year. Such bonds shall be executed in the name of the Hospital District and on its behalf by the president of the board of directors, and countersigned by the secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this State. Upon the approval of such bonds by the Attorney General of Texas and registration by the Comptroller the same shall be incontestable for any cause. No bonds shall be issued by such Hospital District (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying electors, residing in such Hospital District, voting at an election called and held for such purpose. Such election may be called by the board of directors on its own motion, and the order calling said election shall specify the date of the election, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest rate (not to exceed six per cent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such County once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The cost of such election shall be paid by the Hospital District.

The bonds of the District may be made optional for redemption prior to their maturity date at the discretion of the board of directors.

The District may without an election issue the bonds to refund and pay off any validly issued and outstanding bonds heretofore issued by the District, provided any such refund bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

Purchases and expenditures; books and records; rules and regulations

Sec. 7. The board of directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures by and for such Hospital District, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for such District; and may employ a general manager, attorney, bookkeeper, architect, and any other employees deemed necessary for the efficient operation of the Hospital District.

All books, records, accounts, notices and minutes and all other matters of the District and the operation of its facilities shall, except as herein pro-

vided, be maintained at the office of the District and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of such District and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the board of directors, be published in booklet or pamphlet form at the expense of the District and may be made available to any taxpayer upon request.

Fiscal affairs

Sec. 8. The fiscal year of the Hospital District authorized to be established by the provisions hereof shall commence on October 1st of each year and end on the 30th day of September of the following year. The district directors shall cause an annual independent audit to be made of the books and records of the District, such audit to be made covering such fiscal year, and the same shall be filed with the Comptroller of Public Accounts of the State of Texas and at the office of the District not later than December 31st of each year.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the County at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the District shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the amount of taxes required to be levied and collected during such fiscal year and upon final approval of the budget, the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

Eminent domain

Sec. 9. A Hospital District organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said District, necessary or convenient to the exercise of the rights, power, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph No. 2 in Article 3268, Vernon's Annotated Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said District, the District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

Designation of depository

Sec. 10. Within thirty (30) days after appointment and qualification of the board of directors of a Hospital District, the said directors shall by resolution designate a bank or banks within the county in which the District is located as the District's depository or treasurer and all funds of the District shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years until a successor has been named.

Inspection of district

Sec. 11. The Hospital District established or maintained under provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) that may hereafter be created, and resident officers shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the Hospital District.

Limitation on power of county, cities and towns

Sec. 12. Except as herein provided, Stonewall County, or any city or town within the Hospital District, shall not levy any tax against any property within the Hospital District for hospital purposes; and such Hospital District shall assume full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said Hospital District from the date that taxes are collected for the Hospital District.

Patients; inquiry as to ability to pay; liability of relatives

Sec. 13. Whenever a patient residing in the Hospital District has been admitted to the facilities of the Hospital District, the directors shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If they find that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the Hospital District for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The District shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the District to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the Hospital District. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the District's directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the District Court by either party to the dispute.

Donations, gifts and endowments

Sec. 14. Said board of directors of the Hospital District is authorized on behalf of said Hospital District to accept donations, gifts and endowments for the Hospital District to be held in trust and administered by the board of directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of Hospital District.

Legal investments

Sec. 15. All bonds issued by or assumed by the District authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Suits

Sec. 16. The Hospital District created under the provisions of this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this State in the name of such District.

Severability clause

Sec. 17. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the District or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

Proof of publication of notice

Sec. 18. Proof of publication of the Constitutional Notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of Local and Special Laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1963, 58th Leg., p. 89, ch. 54.

Emergency. Filed without the Governor's signature April 8, 1963.

Art. 4494q—9. Jasper Hospital District

Creation of district; hospital site; bonds; tax levy

Section 1. Pursuant to the provisions of this Act and Section 9 of Article IX, Constitution of the State of Texas, there may be created a hospital district, the boundaries of which district shall be coterminous with the boundaries describing commissioners precinct number one and commissioners precinct number two of Jasper County. The hospital district shall be known as the Jasper Hospital District, and shall hereinafter be referred to as "District." The District shall have the power to issue bonds for the purpose of purchasing a site for and the construction and initial equipping of a hospital system, and the operation and maintenance thereof, or for purchasing, leasing, or acquiring, equipping, maintaining, and operating a hospital system, and further the power to levy a tax of not to

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exceed seventy-five cents (75¢) on the One Hundred Dollar property valuation therein for the purpose of paying the principal and interest on such bonds and for maintaining and operating a hospital or hospital system.

Election; petition and order; notice; ballots; contents; results

Sec. 2. (a) Upon the petitions of twenty-five (25) resident qualified taxpaying voters of commissioners precinct number one and commissioners precinct number two, a total of fifty (50) qualified taxpaying voters of the proposed District, the Commissioners Court of Jasper County shall order an election to be held within the proposed District to approve the creation of the District and to elect the first board of directors thereof. The Commissioners Court shall order such election within ten (10) days of the receipt of petitions and the election shall be held within said precincts within thirty (30) days after it is ordered.

(b) Upon and after ordering of the election aforesaid, any resident of the District twenty-one (21) years of age or over and who owns land in the District subject to taxation, and is otherwise qualified, may file application with the Commissioners Court of Jasper County, Texas, to have his or her name placed on the ballot for election to the board of directors of said District. Such applications shall be received by said court up to ten (10) days preceding the date of the election.

(c) At the election there shall be submitted to the resident qualified property taxpaying voters within the boundaries of the precincts who have duly rendered their property for taxation upon the tax rolls of said precincts, the proposition of whether or not the District shall be created within said boundaries; and a majority of the resident qualified property taxpaying voters voting at said election who have duly rendered their property for taxation upon the rolls of said precincts voting in favor of the proposition shall be necessary to create the District.

The ballots shall have printed thereon:

“FOR the creation of a Hospital District and the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation.”

“AGAINST the creation of a Hospital District and the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation.”

There shall also be submitted to the resident qualified voters at such election a separate ballot containing the names of all of the qualified persons who shall file applications to have their names placed on the ballot for election to the board of directors. Each voter shall vote for nine (9) persons. The nine (9) persons receiving the highest number of votes shall constitute the first board of directors of said District. The five (5) receiving the highest number of votes shall serve for terms of two (2) years, and the four (4) receiving the next highest number of votes shall serve for terms of one (1) year.

Notice of such election stating the time of election, and the polling place and proposition and matters to be voted on shall be published in a newspaper of general circulation in Jasper County, Texas, once a week for two (2) consecutive weeks, the first notice not being more than twenty (20) days prior to the date of election.

(d) The results of said election shall be filed in the county clerk's office of Jasper County, Texas, within ten (10) days thereafter. And if the majority of the resident property taxpaying voters voting at said election who have duly rendered their property for taxation upon the tax rolls of said District vote for the creation of the District, then within ten (10) days

of the filing of said results the Commissioners Court shall order the District created and shall at such time declare those persons elected as directors to be the board of directors of the District and such board of directors shall manage and operate the business of the District and shall serve as directors until their respective successors are elected and qualified. As amended Acts 1963, 58th Leg., p. 198, ch. 109, § 1.

Emergency. Effective May 1, 1963.

Management and control of district

Sec. 3. The board of directors of the District shall elect a president and secretary from the members to serve until the next succeeding directors' election; the board of directors shall have the full management and control of all business of the District, including but not limited to the power and authority to negotiate and contract with any person or body, public or private, to purchase or lease land, to construct and equip a hospital system, and to operate and maintain the hospital, and to negotiate and contract with other political subdivisions of the State or private individuals, associations or corporations for such purposes.

Bonds; election; notice; returns and results; certification of validity and registration of bonds

Sec. 4. (a) After creation of the District and the qualification of the board of directors, the board shall order an election to be held within the District at a time not less than twenty (20) days nor more than thirty (30) days from the date of the order for such election at which time the qualified resident property taxpaying voters who have duly rendered their property for taxation upon the tax rolls of the precincts composing the District shall vote to determine if bonds of the District shall be sold to purchase, construct, acquire, repair, or renovate improvements and initially equip same for a hospital system and to operate and maintain same or to pay for the construction of the hospital system or the initial equipping of the hospital system and to operate and maintain same and to authorize the levy of a tax of not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of property therein for the purpose of paying the principal and interest on such bonds and for maintaining and operating the system. At such election the proposition to be voted on shall set forth the purpose of the bonds, the amount of bonds to be issued and the voters shall vote for the issuance of bonds for said purpose and levy of taxes in payment thereof, or against the issuance of bonds for said purpose and levy of taxes in payment thereof.

(b) Notice of such election, stating the time of the election, the polling place, the amount of bonds as determined by the board to be necessary to be issued, the proposition to be voted on and the estimated cost shall be published in a newspaper of general circulation in Jasper County, Texas, once a week for two (2) consecutive weeks, the first notice not being more than twenty (20) days prior to the date of election.

(c) The board of directors shall name the polling places in the District and shall appoint two (2) judges, one of whom shall be presiding judge, and two (2) clerks for each voting place designated by them. The board of directors shall provide the necessary ballots for said election, which shall be printed.

(d) Immediately after the election the presiding judges shall make return of the result in the same manner as provided for in general elections for State and county officials. The return shall be made to the board of directors who shall at a regular or special session canvass said vote, and if

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a majority of the votes favor the issuance of bonds and levy of taxes, the board of directors shall so declare and enter the results in their minutes.

(e) After declaring the result of said election, the board of directors shall make and enter an order in their minutes directing the issuance of bonds for the District sufficient in amount to pay for the proposed project with all necessary, actual and incidental expenses connected therewith not to exceed the amount specified in the order and voted at the election. All bonds issued by the District shall be signed and executed by the president of the board and the secretary.

(f) Before such bonds are offered for sale, there shall be forwarded to the Attorney General a certified copy of all proceedings had in the organization of the District, and with reference to issuance of the bonds in connection with the bonds themselves, and such other information respecting same as he may require. The Attorney General shall carefully examine the bonds in connection with the record and Constitution and laws of the State governing the issuance of such bonds; and if the examination shows that such bonds are issued in conformity thereto, and that they are valid and binding obligations upon the District, he shall so officially certify.

(g) When the bonds are approved, they shall be registered by the Comptroller in a book kept for that purpose and the certificate of the Attorney General as to their validity shall be preserved of record; whereupon such bonds shall be held prima facie valid in every action, suit or proceeding in which their validity may be brought into question. In every suit to enforce collection of such bonds and interest thereon, the only available defense against the validity of such bonds shall be forgery or fraud.

Sale of bonds; redemption; bond record book; refunding bonds

Sec. 5. (a) After the bonds have been registered, the directors shall sell same on the best terms and for the best price possible, not less than their face value and accrued interest; and shall promptly pay over to the District depository the proceeds of such sale to be placed to the credit of the District.

(b) At the time of the payment of interest or for redemption of District bonds, the depository shall receive and cancel any interest coupons so paid or any bonds so discharged and when such interest coupon or bond shall be turned over to the board of directors the account of such depository shall be credited with the amount thereof, and such bond or coupon shall be canceled and destroyed.

(c) When bonds have been issued, the board of directors shall procure and deliver to the county treasurer a well-bound book in which a list shall be kept of all bonds with their manner of payment, amount, rate of interest, date of issuance, when due, where payable, amount received for same, and the tax levy to pay interest on and redeem such bonds; and such books shall at all times be open to the inspection of the parties interested, either as taxpayers or bond holders. Upon the payment of any bond, the treasurer shall make an entry thereof in said book; and he shall receive for such services the same fees allowed by law to the county clerk for recording deeds.

(d) The District when it has issued bonds, may, by consent of the holders thereof, refund any bonds heretofore issued by issuing new coupon bonds for that purpose. Refunding bonds shall not bear a greater rate of interest than the bonds in lieu of which they are issued. Interest shall be evidenced by coupons attached to the bonds, and may be payable an-

nually or semi-annually, within the discretion of its board of directors; refunding bonds shall be payable serially, or otherwise, not exceeding forty (40) years from the date thereof, and shall be issued in denomination of One Hundred Dollars (\$100), or some multiple thereof; and a sufficient tax levy to meet the payment of the principal and interest of said refunding bonds shall be made before the delivery thereof, providing the refunding of any bonds shall not affect any taxes already due.

The refunding bonds hereby authorized shall be issued in the manner provided by law for the issuance of refunding bonds by counties and cities. Any sum to the credit of any sinking fund account on hand shall first be deducted in ascertaining the amount of refunding bonds to be issued, and such money shall in every case be applied to the payment of the outstanding bonds. No refunding bonds shall be issued and delivered until approved by the Attorney General, and registered by the State Comptroller; provided, however, that the Comptroller shall not register such refunding bonds until the old bonds in lieu of which such refunding bonds are issued are presented to him for cancellation; and after the registration of the new bonds the Comptroller shall cancel the old bonds and interest coupons and deliver such new bonds to the proper party or parties; provided, further, that the old bonds may be presented for cancellation, in installments, and a like amount of the new bonds registered and delivered as is herein provided.

Contracts; competitive bidding; notice; bond of contractor

Sec. 6. (a) Contracts for the making and construction of all improvements contemplated in this Act, and all necessary work in connection therewith, when the cost price exceeds Ten Thousand Dollars (\$10,000) shall be let to the lowest responsible bidder, furnishing satisfactory evidence of possessing equipment and facilities essential to the proper performance of such contract; after giving notice by advertising the same in one (1) or more newspapers of general circulation in this State, once a week for four (4) weeks, and by posting a notice for at least ten (10) days at the courthouse door. Such contract shall be in writing and signed by the contractors and directors, and a copy so executed filed with the depository subject to inspection of all interested parties.

(b) The person, firm, corporation or association to which such contract is let shall give surety bond to the District in accordance with the provisions of Article 5160, Revised Civil Statutes of 1925, and amendments thereto.

(c) All contracts shall be fulfilled in accordance with the specifications and under the supervision of the board of directors and district agents.

Election expenses

Sec. 7. If said bonds and levying of taxes are approved by the voters, all expenses incident to calling and holding all elections shall be paid out of any District funds except interest and sinking funds for bonds.

Eminent domain

Sec. 8. The District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the District necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condem-

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nation; provided, that the District shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph No. 2 in Article 3268, Vernon's Civil Statutes of the State of Texas, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the District, the District shall not be required to pay in advance or to give bond or other security for costs in trial court nor to give any bond otherwise required for the issuance of a temporary restraining order or temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas bond on any appeal or writ of error proceeding to any Court of Civil Appeals or the Supreme Court.

Selection of depository

Sec. 9. Within thirty (30) days after the election of the board of directors of the District created under this Act, the board shall select a depository for the District in the manner provided by law for the selection of county depositories; and such depository shall be the depository of such District for a period of two (2) years thereafter until its successor is selected and qualified.

Inspection of district

Sec. 10. The District established or maintained under provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) that may hereafter be created, and of the Commissioners Court of the County, and resident officers shall admit such representatives into all District facilities and give them access on demand to all records, reports, books, papers, and accounts pertaining to the District.

Donations, gifts and endowments

Sec. 11. The board of directors may on behalf of the District accept donations, gifts, and endowments for the District, to be held in trust by the board of directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and objects of the District.

Eligibility of voters

Sec. 12. To be eligible to vote in any election to be held by this District to issue bonds or levy taxes a person must be a resident property taxpayer in the District who has duly rendered his property for taxation upon the tax rolls of the precincts composing the District. Every person who offers to vote in any such election held under the provisions of this Act shall take the following oath before the presiding judge of the polling place where he offers to vote, and such judge is authorized to administer same:

I do solemnly swear that I am a qualified voter of Jasper County and that I am a resident property taxpayer of the District who has duly rendered my property for taxation upon the tax rolls of either county commissioners precinct number one or two of Jasper County, Texas. As amended Acts 1963, 58th Leg., p. 198, ch. 109, § 2.

Directors; qualifications; election; terms of office; vacancies; officers; meetings; records; bond

Sec. 13. (a) No person shall be appointed or elected as a member of the board of directors of the District unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election he shall be more than twenty-one (21) years of age.

(b) There shall be held a general election in the District on the first Saturday in April, 1964, at which four (4) directors shall be elected for terms of two (2) years, and a general election shall be held on the first Saturday in April, 1965, at which election five (5) directors shall be elected for terms of two (2) years, and thereafter four (4) directors shall be elected in each even-numbered year and five (5) directors in each odd-numbered year.

(c) All vacancies in the office of director and other offices shall be filled by appointment by the board of directors for the unexpired term. In the event the number of directors shall be reduced to less than six (6) then the remaining director or directors shall call a special election to fill said vacancies, and if they shall fail to do so within fifteen (15) days after such vacancies occur the County Judge of Jasper County, Texas, upon petition of any voter or creditor thereof shall order the holding of such election, fixing the date thereof, and order the publication of notice thereof by any county sheriff and name the officers to hold such election. In any such election held by order of the county judge the returns of an election shall be made to and filed in the office of the clerk of the court and he shall declare the result thereof. The officers elected shall furnish bond and qualify in the manner provided herein with reference to directors first appointed for said District upon its organization.

(d) The board of directors shall organize following each election of directors by electing one of their number as president and one of their number as secretary. Any five (5) members of the board of directors shall constitute a quorum and a concurrence of five (5) shall be sufficient in all matters pertaining to the business of the District.

(e) The board of directors shall meet at least monthly and shall hold such special meetings as they deem necessary and any taxpayer or resident or interested party may attend such meetings, but shall not participate in same without consent of the board of directors and may present in an orderly manner to said board of directors such matters as they desire.

(f) The board of directors shall keep a true account of all their meetings and proceedings and shall preserve all contracts, records of notices, duplicate vouchers, duplicate receipts and all accounts and records of whatever kind in a safe place and shall be delivered to their successors in office.

(g) All vouchers for the payment of any funds of the District shall be signed by at least two (2) members of the board of directors.

(h) The board of directors shall have kept a complete book of accounts for the District, and shall on June 1st of each year select a competent auditor who shall examine the accounts, books and reports of the depository, the assessor and collector and board of directors, and make full report thereon, a copy of which shall be filed with the depository, and a copy with the board of directors, and one with the county clerk. Such reports shall state for what purposes the money from each fund has been expended.

(i) The board of directors shall employ all necessary employees for the proper handling and operation of the District and especially may employ a general manager, or administrator, attorney, bookkeeper and architect.

(j) The board of directors may purchase all necessary supplies, materials and office equipment to meet the needs of the District.

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(k) Before entering upon his duties each member of the board of directors shall take and subscribe an oath faithfully to discharge the duties of his office without favor or partiality. The oath of the members of the board of directors originally elected shall be filed with the county clerk of Jasper County, Texas. All members of the board of directors subsequently elected shall, prior to entering upon their duties, file said oath with the secretary of the District.

(1) Each member of the board of directors shall give a good and sufficient bond for One Thousand Dollars (\$1,000) payable to the District conditioned upon the faithful performance of his duties.

(m) Members of the board of directors may be removed from office in the same manner and for the same causes as the laws of the State of Texas provide for the removal of county officials.

(n) The members of the board of directors shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties hereunder. As amended Acts 1963, 58th Leg., p. 198, ch. 109, § 3.

Suits; powers of district

Sec. 14. (a) The District when created shall be a governmental agency, body politic and corporate and through its board of directors, sue and be sued in any and all courts of this State in the name of such District and all courts of the State shall take judicial notice of the establishment of the District and said District shall contract and be contracted with in the name of such District.

(b) The District shall have full right and authority to contract for the purchase of land, for the hospital system, the construction of said hospital and the initial equipping of the hospital system and shall have such powers of government and with authority to exercise such rights, privileges and functions concerning the purposes for which it was created, as may be conferred by this Act or any other law in this State to the benefit of which it may be entitled. No enumeration of specific powers herein shall be held a limitation upon the general powers conferred by the Act, unless distinctly so expressed.

Assessment and collection of taxes; delinquent taxes

Sec. 15. (a) The County of Jasper by its county tax assessor and collector shall assess and collect all taxes of the District in the manner in which it assesses and collects the taxes of Jasper County and turn over said taxes to the Jasper County Treasurer who shall deposit same to the credit of the District at its designated depository.

(b) The county tax assessor and collector shall receive one per cent (1%) of the total taxes shown on the completed roll for assessing such taxes and one per cent (1%) for collecting same; provided, however, that the compensation for the collection of delinquent taxes shall be five per cent (5%) of the amount collected.

(c) All taxes which have not been paid on the last day of January shall become delinquent on the first day of February each year and same shall be and remain a lien upon the property for which same were assessed although the owner be unknown or same be listed in the name of a person not the actual owner thereof or though the ownership be changed. All such property may be sold under a judgment of a court for all taxes, interest, penalty and costs assessed against same at any time after such taxes become delinquent. The District shall have authority to file suits

for the collection of taxes against any and all property assessed for taxes and if the owner be unknown such suit may be filed against an unknown owner and the property sold under the judgment of the court. Taxes are not barred by any law of limitation and no law providing for a period of limitation as to debts or actions shall apply to such taxes.

Merger with county-wide hospital district

Sec. 16. In the event there is ever created a District for the County of Jasper or a hospital district created for the balance of the County not including the boundaries of this District, then the board of directors of this District may, at its discretion, determine to merge with said county-wide hospital district or the district covering the balance of the County; provided, (1) that the District would assume all outstanding indebtednesses of this District; and (2) that the merger of districts be approved by the majority of the resident qualified property taxpaying voters voting at an election who have duly rendered their property for taxation upon the rolls of the precincts composing this District. Notice of such election would be given in the same manner as herein provided for the calling of elections for the election of the members of the board of directors.

Severability clause

Sec. 17. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable. Acts 1963, 58th Leg., p. 96, ch. 56.

Emergency. Effective April 12, 1963.

Acts 1963, 58th Leg., p. 178, ch. 109, § 4 provided: "All proceedings heretofore had and taken under the provisions of the original House Bill No. 377 as heretofore enacted by the 58th Legislature at its Regular Session in 1963, by the Commissioners Court of Jasper County, petitioners for any election called thereunder, the notices of election, the conduct of any election and everything pertaining thereto, are hereby in all things ratified, validated and confirmed."

Title of Act:

An Act relating to the creation, administration and financing of a hospital district whose boundaries are coterminous with the boundaries of county commissioners precincts numbered one and two of Jasper County; providing for severability; and declaring an emergency. Acts 1963, 58th Leg., p. 96, ch. 56.

Art. 4494q—10. Tyler County Hospital District

Creation of district

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a Hospital District within the State of Texas, to be known as Tyler County Hospital District, and the boundaries of said District shall be coextensive with the boundaries of Tyler County (hereinafter referred to as the "County"), and said District shall have the powers and responsibilities provided by the aforesaid Constitutional provision.

Election; ballots

Sec. 2. That said District hereby provided for shall assume full responsibility for providing medical and hospital care for the needy residing within the District; provided, however, that such Hospital District shall not be created unless and until an election is duly held in the County for such purpose, which said election may be initiated by the Commissioners Court upon its own motion or upon a petition of fifty (50)

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resident qualified property taxpaying voters, to be held not less than thirty (30) days from the time said election is ordered by the Commissioners Court. At such election, there shall be submitted to the qualified property taxpaying voters the proposition of whether or not a Hospital District shall be created in the County; and a majority of the qualified property taxpaying electors participating in said election voting in favor of the proposition shall be necessary. The ballots for said election shall have printed thereon:

“FOR the creation of a Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation; and providing for the assumption by such District of all outstanding bonds heretofore issued by Tyler County for hospital purposes”; and

“AGAINST the creation of a Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation; and providing for the assumption by such District of all outstanding bonds heretofore issued by Tyler County for hospital purposes.”

Levy and collection of tax

Sec. 3. The Commissioners Court of the County shall have the power and authority, and it shall be its duty, to levy on all property subject to hospital district taxation, for the benefit of the District at the same time taxes are levied for county purposes, using the county values and the county tax roll, a tax of not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within the Hospital District, for the purpose of (1) paying the interest on and creating a sinking fund for bonds which may have been assumed or which may be issued by the Hospital District for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital or hospital system; and (3) when requested by the Board of Hospital Managers of the Hospital District and approved by the Commissioners Court, for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

The tax so levied shall be collected on all property subject to Hospital District taxation by the Assessor and Collector of Taxes for the County on the county tax values, and in the same manner and under the same conditions as county taxes. The Assessor and Collector of Taxes shall charge and deduct from payments to the Hospital District the fees for assessing and collecting the tax at the rate of not exceeding two per cent (2%) of the amounts collected as may be determined by the Commissioners Court. Such fees shall be deposited in the County's General Fund, and shall be reported as fees of office of the Tax Assessor and Collector. Interest and penalties on taxes paid to the Hospital District shall be the same as in the case of county taxes. Discounts shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District depository; and such funds shall be withdrawn only as provided herein. All other income of the Hospital District shall be deposited in like manner with the District depository. Warrants against the Hospital District funds shall not require the signature of the County Clerk.

The Commissioners Court shall have the authority to levy the tax aforesaid for the entire year in which the said Hospital District is established, for the purpose of securing funds to initiate the operation of the Hospital District, and to pay assumed bonds.

Issuance of bonds

Sec. 4. The Commissioners Court shall have the power and authority to issue and sell as the obligations of such Hospital District, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures provided said tax together with any other taxes levied for said District shall not exceed seventy-five cents (75¢) in any one year. Such bonds shall be executed in the name of the Hospital District and on its behalf by the County Judge of the County, and countersigned by the County Clerk, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of such County; and the approval of such bonds by the Attorney General shall have the same force and effect as is by law given to his approval of bonds of the County. No bonds shall be issued by such Hospital District (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying voters residing in such Hospital District voting at an election called and held in accordance with the provisions of Chapter 1, Title 22, of the Revised Civil Statutes of the State of Texas, 1925, as amended, relating to county bonds. Such election may be called by the Commissioners Court on its own motion, or shall be called by it after request therefor by the Board of Hospital Managers of the District; and the same persons shall be responsible for the conduct of such election and arrangement of all details thereof as the persons charged therewith in connection with other county-wide elections. The cost of any such election shall be a charge upon the Hospital District and its funds; and the Hospital District shall make provision for the payment thereof before the Commissioners Court shall be required to order such an election.

In the manner hereinabove provided, the bonds of such Hospital District may, without the necessity of any election therefor, be issued for the purpose of refunding and paying off any bonded indebtedness theretofore assumed by the Hospital District and any bonds theretofore issued by the Hospital District; such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding bonds or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and interest matured thereon, but unpaid; provided the average interest cost per annum on the refunding bonds, computed in accordance with the recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed upon the bonds to be discharged out of the proceeds of the refunding bonds, unless the total interest cost on the refunding bonds, computed to their respective maturity dates, is less than the total interest cost so computed on the bonds to be discharged out of such proceeds. In the foregoing computations, any premium or premiums required to be paid upon the bonds to be refunded as a condition to payment in advance of their stated maturity dates shall be taken into account as an addition to the net interest cost to the Hospital District of the refunding bonds.

Assumption of assets and indebtedness

Sec. 5. Any lands, buildings or equipment that may be owned by the County, and by which medical services or hospital care, including geriatric care, are furnished to the indigent or needy persons of the County, shall

become the property of the Hospital District; and title thereto shall vest in the Hospital District; and any funds of the County which are the proceeds of any bonds assumed by the Hospital District, as hereby provided, shall become the funds of the Hospital District; and title thereto shall vest in the Hospital District; and there shall vest in the Hospital District and become the funds of the Hospital District the unspent portions of any funds theretofore set up or appropriated by budget or otherwise by the County for the support and maintenance of the hospital facilities for the year within which the Hospital District comes into existence, thereby providing such Hospital District with funds with which to maintain and operate such facilities for the remainder of such year. All obligations under contract legally incurred by the County for the building of, or the support and maintenance of, hospital facilities, prior to the creation of the said District but outstanding at the time of the creation of the District, shall be assumed and discharged by it without prejudice to the rights of third parties, provided that the management and control of the property and affairs of the present hospital system shall continue in the Board of Managers of the present hospital system until appointment and organization of the Board of Hospital Managers of the Hospital District, at which time the Board of Managers of the present hospital system shall turn over all records, property and affairs of said hospital system to the Board of Hospital Managers of the Hospital District.

Any outstanding bonded indebtedness incurred by the County in the acquisition of such lands, buildings and equipment, or in the construction and equipping of such hospital facilities, together with any other outstanding bonds issued by the County for hospital purposes, and the proceeds of which are in whole or in part still unspent, shall be assumed by the Hospital District and become the obligation of the Hospital District; and the County shall be by the Hospital District relieved of any further liability for the payment thereof, or for providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against the payment of the principal or interest on any of such bonds in accordance with their respective terms.

The Commissioners Court, as soon the Hospital District is created and authorized at the election hereinabove provided, and there have been appointed and qualified the Board of Hospital Managers hereinafter provided for, shall execute and deliver to the Hospital District, to wit: to its said Board of Hospital Managers, an instrument in writing conveying to said Hospital District the hospital property, including lands, buildings and equipment; and shall transfer to said Hospital District the funds hereinabove provided to become vested in the Hospital District, upon being furnished the certificate of the Chairman of the Board to the fact that a depository for the District's funds has been selected and has qualified; which funds shall, in the hands of the Hospital District and of its Board of Hospital Managers, be used for all or any of the same purposes as, and for no other purposes than, the purposes for which the County could lawfully have used the same had they remained the property and funds of such County.

Board of Hospital Manager; appointment and term; vacancies; powers and duties; administrator; employees; meetings

Sec. 6. The Commissioners Court shall appoint a Board of Hospital Managers, consisting of six (6) members, who shall serve for a term of two (2) years, with overlapping terms if desired, and with initial appointments to terms of office arranged accordingly, and provided that the Coun-

ty Judge of the County shall be an ex officio member of said Board of Hospital Managers. Failure of any member of the Board of Hospital Managers to attend three (3) consecutive regular meetings of the Board shall cause a vacancy in his office, unless such absence is excused by formal action of the Board. The Board of Hospital Managers shall serve without compensation, but may be reimbursed for their actual and necessary traveling and other expenses incurred in the performance of their duties as determined by the Board of Hospital Managers. The duties of the Board of Hospital Managers shall be to manage, control and administer the hospital or hospital system of the Hospital District. The Board of Hospital Managers shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the hospital or hospital system.

The Board shall appoint a general manager, to be known as the Administrator of the Hospital District. The Administrator shall hold office for a term not exceeding two (2) years and shall receive such compensation as may be fixed by the Board. The Administrator shall be subject to removal at any time by the Board. The Administrator shall, before entering into the discharge of his duties, execute a bond payable to the District, in the amount of not less than Ten Thousand Dollars (\$10,000), conditioned that he shall well and faithfully perform the duties required of him, and containing such other conditions as the Board may require. The Administrator shall perform all duties which may be required of him by the Board, and shall supervise all of the work and activities of the District, and have general direction of the affairs of the District, within such limitations as may be prescribed by the Board. He shall be a person qualified by training and experience for the position of Administrator.

The Board of Hospital Managers shall have the authority to employ such employees of every kind and character as may be deemed advisable for the efficient operation of the hospital or hospital system; provided that no contract or term of employment shall exceed the period of two (2) years.

The Board of Hospital Managers, with the approval of the Commissioners Court, shall be authorized to contract with any county for care and treatment of the county's sick, diseased and injured persons, and with the State and agencies of the Federal Government for the care and treatment of such persons for whom the State and such agencies of the Federal Government are responsible. Further, under the same conditions, the Board of Hospital Managers may enter into such contracts with the State and Federal Government as may be necessary to establish or continue a retirement program for the benefit of its employees.

The Board of Hospital Managers may in addition to retirement programs authorized by this Act establish such other retirement program for the benefit of its employees as it deems necessary and advisable.

A majority of the Board of Hospital Managers present shall constitute a quorum for the transaction of any business. From among its members, the Board shall choose a Chairman, who shall preside; or in his absence a Chairman pro tem shall preside; and the Administrator or any member of the Board may be appointed Secretary. The Board shall require the Secretary to keep suitable records of all proceedings of each meeting of the Board. Such records shall be read and signed after each meeting by the Chairman or the member presiding, and attested by the Secretary. The Board shall have a seal, on which shall be engraved the name of the Hospital District; and said seal shall be kept by the Secretary and used in authentication of all acts of the Board.

Purchases and expenditures; books and records; audit

Sec. 7. The Board of Hospital Managers shall have the power to prescribe the method and manner of making purchases and expenditures by and for such Hospital District, and also shall be authorized to prescribe all accounting and control procedures. The Board shall cause an annual audit to be made of the books and records of the District as soon as practicable after the close of each fiscal year, such audit to cover such fiscal year, and to be made by an independent public accountant. The Hospital District shall pay all salaries and expenses necessarily incurred by the Board or any of its officers and agents in performing any duties which may be prescribed or required under this Section. It shall be the duty of any officer, employee or agent of the Board to perform and carry out any function or service prescribed by the Board hereunder.

Assistant to administrator

Sec. 8. In the event of incapacity, absence or inability of the Administrator to discharge any of the duties required of him, the Board may designate an assistant to the Administrator to discharge any duties or functions required of the Administrator. Such assistant or other persons shall give bond and have such limitations upon his authority as may be fixed by the order of the Board.

Annual report of administrator; budget

Sec. 9. Once each year, as soon as practicable after the close of the fiscal year, the Administrator of the Hospital District shall report to the Board of Hospital Managers and the Commissioners Court, a full sworn statement of all moneys and choses in action received by such Administrator and how disbursed or otherwise disposed of. Such report shall show in detail the operations of the District for the year. Under the direction of the Board of Hospital Managers, he shall prepare an annual budget which shall be approved by the Board of Hospital Managers.

Eminent domain

Sec. 10. The Hospital District organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said District, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph numbered 2 in Article 3268, Vernon's Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said District, the District shall not be required to pay in advance or give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas or any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

Selection of depository

Sec. 11. Within thirty (30) days after the appointment of the Board of Hospital Managers of the District and each two (2) years thereafter the said Board shall select a depository for such District which shall

be one or the same depository theretofore selected by the County, such depository shall secure all funds of the District in the manner now provided for the security of county funds.

Inspection of district

Sec. 12. The Hospital District established or maintained under the provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health and of the Commissioners Court of the County, and resident officers shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers, and accounts pertaining to the Hospital District.

Legal counsel

Sec. 13. It shall be the duty of the County Attorney, District Attorney or Criminal District Attorney, as the case may be, charged with the duty of representing the County in civil matters, to represent the Hospital District in all legal matters; provided, however, that the Board of Hospital Managers shall be authorized at its discretion to employ additional legal counsel when the Board deems advisable.

The Hospital District shall contribute sufficient funds to the General Fund of the County for the account of the budget of the County Attorney, District Attorney or Criminal District Attorney, as the case may be, to pay all additional salaries and expenses incurred by such officer in performing the duties required of him by the District.

Limiting powers of county and cities

Sec. 14. Neither the County nor any city therein shall, after the Hospital District has been organized in pursuance of this Act, levy any tax for hospital purposes; and such Hospital District shall be deemed to have assumed full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said Hospital District from the date that taxes are collected for the Hospital District.

That portion of delinquent taxes owed the County on levies for present county hospital system shall continue to be paid to the Hospital District by the County as collected, and applied by the Hospital District to the purposes for which such taxes originally were levied.

Patients; inquiry as to ability to pay; liability of relatives

Sec. 15. Whenever a patient has been admitted to the facilities of the Hospital District from the County, the Administrator shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the Hospital District for the care of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The Administrator shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the Administrator finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the Hospital

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District. Should there be a dispute as to the ability to pay, or doubt in the mind of the Administrator, the County Court shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the District Court by either party to the dispute.

Donations, gifts and endowments

Sec. 16. The Board of Hospital Managers of the Hospital District is authorized on behalf of said Hospital District to accept donations, gifts, and endowments for the Hospital District, to be held in trust and administered by the Board of Hospital Managers for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the Hospital District.

Legal and authorized investments

Sec. 17. All bonds (including refunding bonds) issued by or assumed by the District authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, fiduciaries, building and loan associations, insurance companies, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Public notice

Sec. 18. The Legislature hereby finds affirmatively that thirty (30) days' public notice was duly given in accordance with the provisions of Article IX, Section 9, of the Constitution of the State of Texas, of the intention to apply to this Legislature to enact a law providing for the creation, establishment, maintenance and operation of the Hospital District herein provided for.

Partial invalidity

Sec. 19. If any word, phrase, sentence, Section, portion or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act, and the application of such word, phrase, sentence, Section, portion or provision to other persons or circumstances, shall not be affected thereby. In the event any of the provisions hereof shall be in conflict with any other law of this State, the provisions of this Act shall prevail. Acts 1963, 58th Leg., p. 201, ch. 110.

Emergency. Effective May 1, 1963.

Art. 4494q—11. Mid-Crosby County Hospital District

Authority to Create District; Boundaries

Section 1. Pursuant to authority granted by the provisions of Section 9 of Article IX of the Constitution of the State of Texas, Mid-Crosby County Hospital District is hereby authorized to be created and as created shall comprise all territory contained within the boundaries described as follows, to-wit:

Beginning at a point where the north boundary line of Crosby County, Texas, intersects the west line of Section 212, Crosby County, Texas, said point being the northwest corner of the Mid-Crosby County Hospital District.

THENCE East along the north line of Crosby County, Texas, to a point where the north line of Crosby County, Texas intersects the east line of Section 21, Block 2, B & B Survey, Crosby County, Texas, said point being the northeast corner of the West Crosby County Hospital District;

THENCE South along the east line of Sections 21, 20, 17, 16, 13, 12, 9, 8, 7 and 6, Block 2, B & B Survey, Crosby County, Texas, to the southeast corner of Section 6, Block 2, B & B Survey, Crosby County, Texas, said point being a corner of this tract;

THENCE West along the south line of Section 6, Block 2, B & B Survey, Crosby County, Texas, to a point where the south line of said Section 6 intersects the east line of Section 2, John Gibson Block, Crosby County, Texas, said point being a corner of this tract;

THENCE South along the east line of Sections 2 and 1, John Gibson Block; Sections 19, 14, 13 and 2, Block 1, I & GN RR Survey; Sections 32, 31, 30, 29 and 28, Block 2, Wash. Co. RR Co. Survey; Section 9, Block 3, Wash. Co. RR Co. Survey, to the southeast corner of said Section 9, the same being the southwest corner of Section 8, Block 3, Wash. Co. RR Co. Survey, Crosby County, Texas, said point being a corner of this tract;

THENCE East along the south line of Sections 8, 7 and 6, Block 3, Wash. Co. RR Co. Survey, Crosby County, Texas, to the southeast corner of said Section 6, said point being a corner of this tract;

THENCE South along the west line of Section 2, A. W. Hudson Survey, Crosby County, Texas, to the southwest corner of said Section 2, said point being a corner of this tract;

THENCE East along the south line of Section 2, A. W. Hudson Survey, Crosby County, Texas, to the northwest corner of Section 114, Block 8, H & GN RR Survey, Crosby County, Texas, said point being a corner of this tract;

THENCE South along the west line of Sections 114, 107, 104, 97, 90, 83, 76 and 69, Block 8, H & GN RR Survey, Crosby County, Texas, to a point where the west line of said Section 69, intersects the south boundary line of Crosby County, Texas, said point being the southeast corner of the Mid-Crosby County Hospital District;

THENCE West along the south boundary line of Crosby County, Texas, to a point where the south boundary line of Crosby County, Texas intersects the west line of Section 18, Block B-9, Crosby County, Texas, said point being the southwest corner of the Mid-Crosby County Hospital District;

THENCE North along the west line of Sections 18 and 17, Block B-9; Sections 1, 2, 3 and 5, K. Aycock Survey, Crosby County, Texas, to a point in the south line of Section 1036, Block C-3, EL & RR Survey, Crosby County, Texas, said point being a corner of this tract;

THENCE West along the south line of Section 1036, Block C-3, EL & RR Survey, Crosby County, Texas, to the southwest corner of said Section 1036, said point being a corner of this tract;

THENCE North along the west line of Sections 1036, 1038, 1072, 1, 1009, 1010, 1006 and 1019, Block C-3, EL & RR Survey, Crosby County, Texas, to the northwest corner of said Section 1019, the same being the northeast corner of Section 1020, Block C-3, EL & RR Survey, Crosby County, Texas, said point being a corner of this tract;

THENCE West along the north line of Section 1020, Block C-3, EL & RR Survey, Crosby County, Texas, to the southwest corner of Section 2,

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Block C-3, EL & RR Survey, Crosby County, Texas, said point being a corner of this tract;

THENCE North along the west line of Sections 2 and 4, Block C-3, EL & RR Survey; Sections 6 and 4, Block 1, BS & F Survey; Sections 922, 915, 916, 909, 910, 894 and 887, Block C-3, EL & RR Survey, Crosby County, Texas, to a point in the west line of said Section 887, the same being the northeast corner of Section 18, Block C, Crosby County, Texas, said point being a corner of this tract;

THENCE West along the north line of Section 18, Block C, Crosby County, Texas, to the southeast corner of Section 17, Block C, the same being the southwest corner of the west portion of Block Z-2, Crosby County, Texas, said point being a corner of this tract;

THENCE North along the east line of Sections 17, 16, 15, 14, and 13, Block C; the J. P. Long Survey, Crosby County, Texas, to a point in the south line of Section 218, Crosby County, Texas, said point being a corner of this tract;

THENCE East along the south line of Section 218, Crosby County, Texas, to the southeast corner of said Section 218, the same being the southwest corner of Section 217, Crosby County, Texas, said point being a corner of this tract;

THENCE North along the west line of Sections 217 and 212, Crosby County, Texas, to a point in the north boundary line of Crosby County, Texas, said point being the northwest corner of the Mid-Crosby County Hospital District and the place of beginning.

It is determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process it shall in no way or manner affect the organization, existence, or validity of the District or the right of the District to issue bonds or refunding bonds, and the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the District.

Purposes of District

Sec. 2. The District herein authorized to be created shall provide for the establishment of hospital or hospital system within its boundaries by the purchase, construction, acquisition, repair or renovation of buildings and improvements and the equipping of same and the administration thereof for hospital purposes. Such district shall assume full responsibility for providing medical and hospital care for its needy inhabitants. There being no hospital, hospital system or hospital facilities of any nature presently owned by Crosby County or any city or town in the boundaries hereinabove set forth, so provisions are made herein for the transfer of properties or equipment or the assumption of outstanding indebtedness heretofore incurred for hospital purposes.

Creation of District

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be called by a majority of the temporary or provisional directors of the District and shall be held not less than twenty (20) nor more than thirty-five (35) days from the time such election is ordered. The order calling the election shall specify the time and places of holding same, the form of ballot and the

presiding judge for each voting place. Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in the area of the proposed District, once a week for two consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date set for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose. At said election there shall be submitted to the qualified property taxpaying electors of said proposed District the proposition of whether or not Mid-Crosby County Hospital District shall be created with authority to levy annual taxes at a rate not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds, and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR THE CREATION OF MID-CROSBY COUNTY HOSPITAL DISTRICT, THE LEVY OF A TAX NOT TO EXCEED SEVENTY-FIVE CENTS (75¢) ON THE ONE HUNDRED DOLLARS (\$100) VALUATION";

and

"AGAINST THE CREATION OF MID-CROSBY COUNTY HOSPITAL DISTRICT, THE LEVY OF A TAX NOT TO EXCEED SEVENTY-FIVE CENTS (75¢) ON THE ONE HUNDRED DOLLARS (\$100) VALUATION."

Directors; Election; Terms of Office; Vacancies; Officers

Sec. 4. Upon the effective date of this Act, the following named persons shall be and constitute the temporary or provisional Directors of said District:

Robert H. Hinton
 Tim D. Lyle
 Claude Adams
 K. G. Howard

Charles B. Gray
 Vance Cypert
 Marvin L. Tomme
 W. P. McKee

and each of said directors shall subscribe to the Constitutional oath of office within sixty (60) days of the effective date of this Act. Should any of the named directors refuse to act or for any reason fail to qualify as herein required, the County Judge of Crosby County shall fill such vacancy. The terms of office of the first four (4) named directors shall expire on the first Tuesday in April, 1964, and the terms of the last four (4) named directors shall expire on the first Tuesday in April, 1965. A regular election for directors shall be held on the first Tuesday in April in each year beginning 1964, and four (4) directors shall be elected at that time and in each succeeding year. The regular election for directors shall be ordered by the Board and such order shall state the time, place, and purpose of the election and the Board shall appoint the presiding judge who shall appoint an assistant judge and such clerks as may be required, and such election shall be ordered at least fifteen (15) days prior to the date of which the election is to be held. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition, signed by not less than ten (10) qualified voters asking that such name be printed on the ballot, with the secretary of the Board of Directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election. Notice of such election shall be published one (1) time in a newspaper of general circulation in

the area of the district at least five (5) days before the election. All vacancies in office (other than for the failure of an original director herein appointed to qualify) shall be filled by a majority vote of the remaining directors and such appointees shall hold office for the unexpired term for which they were appointed.

No director shall be entitled to compensation, but shall be entitled to receive his actual expenses incurred in attending to the District's business, provided such expenses are approved by the remainder of the Board. Any person who is a resident property owning taxpaying voters¹ of the district shall be eligible to hold office as directors¹ of the District. The Board of Directors shall elect from its number a president, vice-president, secretary and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and shall have the same right to vote as any other director. The vice-president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails and declines to act.

The directors named herein and their successors in office shall hold office as provisional or temporary directors until such time as the creation of the District has been approved at an election as herein provided. At such time as the creation of the District is so approved and the returns of the election officially canvassed, the persons acting as provisional or temporary directors shall become permanent directors whose terms shall expire as hereinabove provided. Each permanent director, and their successors in office, shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000.00) payable to said District conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the district for safe-keeping.

¹ So in enrolled bill.

Powers of Directors

Sec. 5. The Board of Directors shall manage, control and administer the hospitals and hospital system of the District. The District through its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The Board of Directors shall appoint a qualified person to be known as the administrator or manager of the Hospital District and may in its discretion appoint an assistant to the administrator or manager. Such administrator or manager, and assistant administrator or assistant manager, if any, shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board. The administrator or manager shall, upon assuming his duties, execute a bond payable to the Hospital District in an amount to be set by the Board of Directors, in no event less than Ten Thousand Dollars (\$10,000), conditioned that he shall perform the duties required of him and containing such other conditions as the Board may require. The administrator or manager shall supervise all the work and activities of the District and shall have general direction of the affairs of the District subject to such limitations as may be prescribed by the Board. The Board of Directors shall have the authority to employ such doctors, technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the District or may provide that the administrator or manager shall have the authority to employ such persons. Such Board shall be authorized to contract with any county or incorporated municipality located outside the District for the care and treatment of the sick, diseased or injured persons of any such county or municipality and shall have the authority to con-

tract with the State of Texas and agencies of the federal government, for treatment of sick, diseased or injured persons for whom the State of Texas or the federal government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the federal government as may be required to establish or continue a retirement program for the benefit of the District's employees.

Fiscal Year—Audit—Accounting

Sec. 6. The District shall be operated on a fiscal year commencing on October 1 of each year and ending on September 30 of the succeeding year and it shall cause an audit to be made of the financial condition of said District which shall at all times be open to inspection at the principal office of the District. In addition the administrator or manager shall prepare an annual budget for approval by the Board of Directors of said District. As soon as practical after the close of each fiscal year the administrator or manager shall prepare for the Board a full sworn statement of all moneys belonging to the District and a full account of the disbursements of same.

Authorization of Bonds and Levy of Tax

Sec. 7. The Board of Directors of the Hospital District shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such Hospital District for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospitals and the hospital system, as determined by the Board, and for any or all of such purposes. At the time of the issuance of any such bonds a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed Seventy-five Cents (75¢) on each One Hundred Dollars (\$100) valuation of taxable property in any one year. Such bonds shall be issued under the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, but shall be executed in the name of the Hospital District and in its behalf by the president of the Board and attested by the secretary as provided by Article 717j—1, V.A.T.C.S. and shall be subject to the same requirements in the matter of the approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bonds shall be issued by such Hospital District except refunding bonds, until authorized by a majority of the qualified property tax-paying electors of the District voting at an election called for such purpose. Such election shall be called by the Board of Directors and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, and except as therein otherwise provided, shall be conducted in accordance with the General Laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The election order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate of interest they are to bear, the place or places where the election shall be held and the presiding officers thereof.

The bonds of the District may be issued for the purpose of refunding and paying off any bond or other refundable indebtedness issued by the District. Such refunding bonds may be sold and the proceeds thereof

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applied to the payment of any outstanding bonds or other refundable indebtedness, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds or refundable indebtedness; provided that if such refunding bonds are to be exchanged for a like amount of said outstanding bonds or other refundable indebtedness the interest thereon computed in accordance with recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed upon the bonds or other indebtedness to be refunded; and provided further, that if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness same shall be issued and payments made in the manner specified by Article 717k, Revised Civil Statutes of Texas, as amended.

Bonds Exempt From Taxation

Sec. 8. In carrying out the purposes of this Act the District will be performing an essential public function and any bonds issued by it and their transfer and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the state or any municipality or political subdivision thereof.

Purchases and Expenditures

Sec. 9. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures, by and for such Hospital District, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act.

District Depository

Sec. 10. The Board of Directors of the District shall name one or more banks within the District to serve as depository for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District in time that such money may be received by said bank or banks of payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

Bonds Eligible for Investment and to Secure Deposits

Sec. 11. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns, village,¹ counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be

lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

¹ So in enrolled bill.

Eminent Domain

Sec. 12. The District created hereunder shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the District, necessary or convenient to the powers, rights and privileges conferred by this Act, in the manner provided by General Law with respect to condemnation.

Levy, Assessment and Collection of Taxes

Sec. 13. District taxes shall be assessed and collected in the same manner as provided by law with relation to county taxes upon all taxable property within said District, subject to District taxation. The Tax Assessor and/or Collector of Crosby County shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District Depository. For his services the County Tax Assessor-Collector shall be allowed such compensation as may be provided for by contract with the District but not to exceed the amount allowed for assessment and collection of county taxes. The bond of the County Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District, or, if in the judgment of the District Board of Directors, it is necessary that additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, the County Tax Assessor-Collector shall be authorized to act in all respects according to the laws of the State of Texas relating to state and county taxes.

Patients; Inquiry as to the Ability to Pay; Liability of Relative

Sec. 14. Whenever a patient residing within the District has been admitted to the facilities thereof, the administrator or manager, shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment, in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the Hospital District for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The administrator or manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable for his support in the manner provided by law for the collection of expenses in the last illness of a deceased person. If the administrator or manager finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, same shall become a charge upon the Hospital District as to the amount of the inability to pay. Should there be any dispute as to the ability to pay or doubt in the mind of the administrator or manager, the Board of Directors shall hear and determine same, after calling witnesses, and shall make such order or orders as may be proper.

Donations

Sec. 15. The Board of Directors of the Hospital District is authorized on behalf of such District to accept donations, gifts and endowments to be held in trust and administered by the Board of Directors for such pur-

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

poses and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and object of the Hospital District.

Annual Budget

Sec. 16. The Board of Directors of said Hospital District shall cause to be prepared an annual budget based upon the fiscal year of the Hospital District in accordance with the provisions of Section 5 hereof and prior to September 1 of each year shall give notice of the public hearing on the proposed budget. Such notice shall be published in a newspaper of general circulation in the District one time at least ten (10) days prior to the date set for the hearing.

District Alone to Incur Indebtedness for Hospital Purposes

Sec. 17. After creation of Mid-Crosby County Hospital District as herein provided no other municipality or political subdivision therein shall thereafter issue bonds or other evidences of indebtedness or levy taxes for hospital purposes for medical treatment of indigent persons and the said Mid-Crosby County Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons within its boundaries.

State Not to be Obligated

Sec. 18. The support and maintenance of the Mid-Crosby County Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

Severability Clause

Sec. 19. If any of the provisions 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.

Publication of Notice

Sec. 20. Proof of Publication of the notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1963, 58th Leg., p. 337, ch. 129.

Emergency. Effective May 9, 1963.

Art. 4494q—12. Archer County Hospital District

Purposes of act

Section 1. This Act is enacted pursuant to the authority granted by Article IX, Section 9 of the Constitution of the State of Texas in order to provide a more efficient and economical method for administering the Archer County Hospital, and to provide a more efficient method for caring for the indigent patients of Archer County.

Authority to create district; boundaries; purpose

Sec. 2. Archer County may create a hospital district, subject to the provisions of Section 3(a), to be known as "Archer County Hospital District" with boundaries coextensive with the boundaries of Archer County, Texas. The purpose of the District shall be to operate the hospital facilities now known as the Archer County Hospital, and such additional facilities as may be provided in the future, and to promulgate procedures to furnish medical and hospital care to indigent persons residing within Archer County.

Election; petition; ballots

Sec. 3. (a) Archer County Hospital District shall not be created until an election is held in the County for the purpose of complying with the provisions of Article IX, Section 9 of the Constitution of the State of Texas.

(b) The election may be initiated by the Commissioners Court or upon a petition of one hundred (100) resident qualified property taxpaying electors, to be held not less than thirty (30) days from the time the election is ordered by the Commissioners Court. At the election the resident qualified taxpaying voters of the County shall have submitted to them the proposition for the creation of the Hospital District, and a majority of such electors participating in the election voting in favor of the proposition shall be necessary for the District to be created. The ballots shall have printed thereon:

"FOR the creation of a Archer County Hospital District and authorizing the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of taxable property in the District and the assumption by the District of outstanding bonds issued by Archer County, Texas, for hospital purposes."

"AGAINST the creation of a Archer County Hospital District and authorizing the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of taxable property in the District and the assumption by the District of outstanding bonds issued by Archer County, Texas, for hospital purposes."

Canvass of returns; board of directors; terms; vacancies; officers

Sec. 4. (a) Within ten (10) days after the election the Commissioners Court of Archer County shall convene and canvass the returns of the election, and if a majority of the resident qualified property taxpaying electors voting at the election voted in favor of the proposition, the Court shall so find and declare the District created.

(b) Archer County Hospital District shall be governed by a Board of Directors. The Board shall consist of six (6) members who shall serve without pay, but may be reimbursed for actual expenses incurred in the performance of official duties upon approval by the entire Board of Directors.

Each director shall be a resident of the District, own land subject to taxation within the District, and at the time of election or appointment be more than twenty-one (21) years of age.

(c) Members of the existing Board of the Archer County Hospital shall serve as interim directors until the first election and establish procedure for filing for the Board of Directors. The first election shall be held within one (1) year from the date of the creation of the District. After the

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

first election, the elected Board of Directors shall have authority to set the date and procedures of subsequent elections.

(d) The three (3) directors receiving the highest vote at the first election shall serve for two (2) years, the other three (3) directors shall serve for one (1) year. Thereafter all directors shall serve for a period of two (2) years and until their successor has been duly elected or appointed and qualified.

(e) All vacancies in the Board of Directors shall be filled through appointment by the remaining board members for the unexpired term in the position vacated.

(f) At the first regular meeting following each election, the Board of Directors shall select one (1) of its members as president, and one (1) as secretary. The Board of Directors shall establish rules of procedure for its meetings.

Assumption of debts and obligations

Sec. 5. All lands, building equipment and other items owned by Archer County Hospital shall become the property of Archer County Hospital District upon the creation of the District. The Commissioners Court shall provide by order that all property so owned shall be conveyed to Archer County Hospital District in consideration of the District assuming all debts and obligations arising from the acquisition, construction, and operation of Archer County Hospital. The District, through its Board of Directors, shall by resolution accept said properties and shall assume all such liabilities and obligations of Archer County Hospital.

Tax; levy and collection

Sec. 6. (a) Upon the creation of Archer County Hospital District, the Board of Directors shall levy on all property subject to hospital district taxation for the benefit of the District at the same time taxes are levied for county purposes, using the county values and the county tax roll, a tax of not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within the Hospital District, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which are assumed or which may be issued by the Hospital District for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital or hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

(b) Not later than October 1 of each year, the Board of Directors shall levy the tax on all taxable property within the District which is subject to taxation and immediately certify such tax rate to the tax assessor and collector of Archer County. It shall be collected on all property subject to hospital district taxation by the assessor and collector of taxes for the County on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the Hospital District the fees for assessing and collecting the tax at the rate not exceeding one per cent (1%) of the amounts collected as may be determined by the Board of Directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one fiscal year. The fees shall be deposited in the County's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the Hospital District shall be the same as in the case of county taxes. Discounts shall be the same as

for county taxes. The residue of tax collections after deduction of discounts and fees for assessing and collecting shall be deposited in the district depository; and such funds shall be withdrawn only as provided herein. All other income of the Hospital District shall be deposited in like manner with the district depository.

(c) The Board of Directors shall have the authority to levy the tax aforesaid for the entire year in which the said Hospital District is established, for the purpose of securing funds to initiate the operation of the Hospital District, and to pay assumed obligations.

Bonds

Sec. 7. (a) The Board of Directors of the District may issue and sell bonds in the name of the District and upon the faith and credit of the District to purchase, construct, acquire, repair or renovate improvements and for initially equipping the hospital or hospital system as such system may be defined by the Board, and for all other purposes.

(b) At the time such bonds are issued a tax shall be levied by the Board sufficient to create an interest and sinking fund to pay the interest and principal as they mature. Such a tax, together with all other taxes levied by the District shall not exceed seventy-five cents (75¢) on each One Hundred Dollar (\$100) valuation of taxable property in any one year. Such bonds shall be executed in the name of the District and on its behalf by the president of the Board of Directors and countersigned by the secretary of the Board of Directors, and subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of such county. Upon the approval of the bonds by the Attorney General of Texas the same shall be incontestable for any cause. No bonds shall be issued by such Hospital District (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying electors, residing in such Hospital District, voting at an election called and held for such purpose. Such election may be called by the Board of Directors of its own motion, shall specify the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest rate (not to exceed six per cent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such county once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The costs of the election shall be paid by the Hospital District.

(c) Bonds for the purpose of refunding and paying off any bonded indebtedness theretofore assumed or issued by the District may be issued without the necessity of an election. Such refunding bonds may be sold and the proceeds applied to the payment of any such outstanding bonds or may be exchanged in whole or part for not less than a like amount of said outstanding bonds and unpaid interest matured thereon; provided the interest cost on such refunding bonds, computed in accordance with recognized standard bond interest costs tables, shall not exceed the interest cost so computed upon the bonds to be refunded. In the foregoing computations, any premiums required to be paid upon the bonds to be refunded as a condition to payment in advance of their stated maturity dates shall

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be taken into account and added to the net interest cost to the Hospital District of the refunding bonds.

Rules and regulations; administrator; employees

Sec. 8. (a) The Board of Directors shall manage, control and administer the hospital or hospital system of the Hospital District. The District, through its Board of Directors, shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of said District.

(b) The Board of Directors shall appoint a qualified person to be known as the administrator of the Hospital District and may in its discretion appoint an assistant to the administrator. The administrator and assistant administrator, if any, shall serve at the will of the Board and shall receive such compensation as they may fix. The administrator and assistant administrator shall, before assuming their duties, execute a bond payable to the Hospital District in an amount to be set by the Board of Directors, in no event less than Ten Thousand Dollars (\$10,000) conditioned that they shall faithfully perform the duties required of them and containing such other conditions as the Board may require. The administrator shall supervise all the work and activities of the District and have general direction of the affairs of the District, subject to such limitations as may be prescribed by the Board.

(c) The Board of Directors shall have the authority to employ such doctors, technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the District or may provide that the administrator shall have the authority to employ any of such personnel. The Board of Directors shall be authorized to contract with any county or incorporated municipality, other than those located within Archer County, for the care and treatment of the sick, diseased or injured persons of such County or city, and shall have the authority to contract with the State of Texas and agencies of the Federal Government for treatment of sick, diseased or injured persons for whom the State of Texas or the Federal Government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the Federal Government as may be required to establish or continue a retirement program for the benefit of the District's employees.

Purchases and expenditures

Sec. 9. The Board of Directors shall have the power to prescribe the method and manner of making purchases and expenditures; however, no contract for an amount exceeding Two Thousand Dollars (\$2,000) shall be made without first receiving competitive bids for the same in the manner required and provided for by Article 2368a of Vernon's Annotated Civil Statutes of Texas, known as the "Bond and Warrant Law."

Receipts and disbursements; budget

Sec. 10. (a) The Board of Directors shall establish a fiscal year for the District, and as soon as practicable after the close of each fiscal year the administrator shall prepare for the Board a full sworn statement of all moneys and choses in action received by said District and a full account of the disbursements of the same.

(b) Each year the Board shall cause a budget to be prepared showing proposed expenditures and disbursements and estimated receipts and collections for the following fiscal year. A public hearing on the proposed budget shall be held. Notice of the public hearing shall be given in a

newspaper of general circulation in the County not less than ten (10) days prior to the date of the hearing.

Eminent domain

Sec. 11. Archer County Hospital District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real and personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of said District, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by paragraph 2 of Article 3268, Revised Civil Statutes of Texas, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the District, the District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any court of civil appeals or to the Supreme Court.

Depository

Sec. 12. Within thirty (30) days after the appointment of the Board of Directors, the Board shall select a depository for the District in the manner provided by law for the selection of county depositories, and such depository shall be the depository of such District for a period of two (2) years thereafter and until its successor is selected and qualified.

Inspection of district

Sec. 13. Archer County Hospital District shall be subject to inspection by any duly authorized representative of the Texas State Department of Health or the Texas Department of Public Welfare, and the Board of Directors shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers, and accounts pertaining to the Hospital District.

Legal counsel

Sec. 14. The County Attorney of Archer County shall represent the District; however, the Board of Directors is authorized to employ additional counsel as needed.

Limiting powers of county and cities

Sec. 15. (a) After the creation of Archer County Hospital District, Archer County or other political subdivision shall not have the power to levy or issue bonds or other obligations for hospital purposes or for providing medical care within Archer County. Archer County Hospital District shall assume full responsibility for the operation of Archer County Hospital and the furnishing of medical and hospital care for indigent persons residing in the District from the date of its formation.

(b) That portion of delinquent taxes levied by Archer County or other political subdivision, for hospital purposes, shall be paid as collected to the District and applied by the District to the purposes for which the taxes originally were levied.

Patients; inquiry as to ability to pay; liability of relatives

Sec. 16. Whenever a patient who resides within the District has been admitted to the facilities of the Hospital District, the administrator shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the Hospital District for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The administrator shall have power and authority to collect such sum from the estate of the patient or his relatives legally liable for his support in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the administrator finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the Hospital District as to the amount of inability to pay. Should there be a dispute as to the ability to pay or doubt in the mind of the administrator, the Board of Directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper.

Donations, gifts and endowments

Sec. 17. The Board of Directors of the Hospital District is authorized, on behalf of the District, to accept donations, gifts, and endowments for the Hospital District, to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and objectives of the District. Acts 1963, 58th Leg., p. 349, ch. 133.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 4494q—13. Sweeny Hospital District**Purpose of act**

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a hospital district within the State of Texas, to be known as the Sweeny Hospital District with boundaries coextensive with the boundaries of the Sweeny Independent School District.

Duties of district; election; ballots

Sec. 2. The hospital district herein authorized to be created, shall provide for the establishment of a hospital system to furnish medical and hospital care to persons residing in said hospital district by the purchase, construction, acquisition, repair, or renovation of buildings and improvements; and the equipping of same and the administration thereof for hospital purposes. Such district shall assume full responsibility for providing medical and hospital care for its needy inhabitants. Such hospital district shall not be created nor shall such tax therein be authorized unless and until such creation and such taxes are approved by a majority of the qualified property taxpaying electors of the district voting in an election called for such purpose. Such election may be initiated by election judges, who shall be O. K. Hitchcock, Earl Wells, Bobby W. Brown, George Sparkman and Roy Walby upon their own motion or upon a petition of one hun-

dred (100) resident qualified property taxpaying electors, residing within the boundaries of the proposed hospital district, to be held not less than thirty (30) days nor more than sixty (60) days from the time said election is ordered by the election judges.

The order calling the election shall specify the time and place or places of holding same, the form of ballot and the presiding judge for each voting place. At such election there shall be submitted to the qualified property taxpaying electors the proposition of whether or not Sweeny Hospital District shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such district for the purpose of meeting the requirements of the district's bonds and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the district voting in said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR the creation of the Sweeny Hospital District; providing for the levy of annual taxes not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District."

"AGAINST the creation of the Sweeny Hospital District; providing for the levy of annual taxes not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District."

Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in Sweeny Hospital District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election.

The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose.

Canvass of returns; board of directors; terms of office; bond; officers

Sec. 3. Within ten (10) days after such election is held the election judges shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition, they shall so find and declare the hospital district established and created and O. K. Hitchcock, Earl Wells, Bobby W. Brown, George Sparkman and Roy Walby shall be the directors of the district to serve until the first Saturday in April following the creation and establishment of the district at which time five (5) directors shall be elected. The three (3) directors receiving the highest vote at such first election shall serve for two (2) years, the other two (2) directors shall serve for one (1) year. Thereafter, all directors shall serve for a period of two (2) years and until their successor has been duly elected or appointed and qualified. No person shall be appointed or elected as a member of the board of directors of said hospital district unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age. Each member of the board of directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said district conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the district for safe-keeping.

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

The board of directors shall organize by electing one (1) of their number as president and one (1) of their number as secretary. Any three (3) members of the board of directors shall constitute a quorum and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the district. All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the board of directors. In the event the number of directors shall be reduced to less than three (3) for any reason, the remaining directors shall immediately call a special election to fill said vacancies, and upon failure to do so a district court may, upon application of any voter or taxpayer of the district, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election of directors shall be held on the first Saturday in April of each year and notice of such election shall be published in a newspaper of general circulation in the county one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition, signed by not less than twenty-five (25) qualified voters asking that such name be printed on the ballot, with the secretary of the board of directors of the district. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election.

Management and control of district

Sec. 4. The management and control of each hospital district created pursuant to the provisions of this Act is hereby vested in the board of directors of the district who shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the entire board of directors.

Taxes; levy and collection

Sec. 5. Upon the creation of such hospital district, the board of directors shall have the power and authority and it shall be their duty to levy on all property subject to hospital district taxation for the benefit of the district at the same time taxes are levied for county purposes, using the county values and the county tax roll, a tax of not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within the hospital district, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which may be issued by the hospital district for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital district and hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

Not later than October 1st of each year, the board of directors shall levy the tax on all taxable property within the district which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of the county in which the district is located. The tax so levied shall be collected on all property subject to hospital district taxation by the assessor and collector of taxes for the county on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the hospital district the fees for assessing and collecting the tax at the rate of not exceeding one percent (1%) of the amounts collected as may be determined by the board of directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one (1) fiscal year. Such fees shall

be deposited in the county's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the hospital district shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the district depository; and such funds shall be withdrawn only as provided herein. All other income of the hospital district shall be deposited in like manner with the district depository.

The board of directors shall have the authority to levy the tax aforesaid for the entire year in which the said hospital district is established, for the purpose of securing funds to initiate the operation of the hospital district.

Bonds

Sec. 6. The board of directors shall have the power and authority to issue and sell as the obligations of such hospital district, and in the name and upon the faith and credit of such hospital district, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures providing said tax together with any other taxes levied for said district shall not exceed seventy-five cents (75¢) in any one (1) year. Such bonds shall be executed in the name of the hospital district and on its behalf by the president of the board of directors, and countersigned by the secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of counties of this state. Upon the approval of such bonds by the Attorney General of Texas and registration by the Comptroller the same shall be incontestable for any cause. No bonds shall be issued by such hospital district (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying electors, residing in such hospital district, voting at an election called and held for such purpose. Such election may be called by the board of directors on its own motion, and the order calling said election shall specify the date of the election, the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest rate (not to exceed six percent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such county once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) full days prior to the date set for the election. The cost of such election shall be paid by the hospital district.

The bonds of the district may be made optional for redemption prior to their maturity date at the discretion of the board of directors.

The district may without an election issue the bonds to refund and pay off any validly issued and outstanding bonds heretofore or hereafter issued by the district, provided any such refund bonds shall bear interest at the same rate or at a lesser rate than the bonds being refunded unless it be shown mathematically that a savings will result in the total amount of interest to be paid.

Bond election

Sec. 6a. At the option of the election judges named in Section 2 of this Act, said election judges may order an election for the issuance of bonds to be held on the same day as the election called for in said Section 2. Such election may be called by a separate election order, or as a part of the order calling the election called for in said Section 2. The provisions of Section 6 of this Act shall apply to such election, with the exception that such election shall be ordered by the election judges and the returns of said election shall be canvassed by said election judges. If the bonds are authorized at said election, then they shall be issued by the board of directors (assuming, of course, that the proposition called for in Section 2 is favored by a majority vote). With the exception of bonds authorized by this Section 6a, all bond elections shall be ordered and the returns thereof shall be canvassed by the board of directors.

Purchases and expenditures

Sec. 7. The board of directors of such district shall have the power to prescribe the method and manner of making purchases and expenditures by and for such hospital district, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials and equipment; and shall have the power to adopt a seal for such district; and may employ a general manager, attorney, bookkeeper, architect, and any other employees deemed necessary for the efficient operation of the hospital district.

All books, records, accounts, notices and minutes and all other matters of the district and the operation of its facilities shall, except as herein provided, be maintained at the office of the district and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of such district and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the board of directors, be published in booklet or pamphlet form at the expense of the district and may be made available to any taxpayer upon request.

Fiscal affairs; books and records; budget

Sec. 8. The fiscal year of the hospital district authorized to be established by the provisions hereof shall commence on October 1st of each year and end on the 30th day of September of the following year. The district directors shall cause an annual independent audit to be made of the books and records of the district, such audit to be made covering such fiscal year, and the same shall be filed with the Comptroller of Public Accounts of the State of Texas and at the office of the district not later than December 31st of each year.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the county at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the district shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the

amount of taxes required to be levied and collected during such fiscal year and upon final approval of the budget, the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

Eminent domain

Sec. 9. A hospital district organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said district, necessary or convenient to the exercise of the rights, power, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said district shall not be required to make deposits in the registry of the trial court of the sum required by Paragraph No. 2 in Article 3268, Vernon's Annotated Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said district, the district shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

Depository

Sec. 10. Within thirty (30) days after appointment and qualification of the board of directors of a hospital district, the said directors shall by resolution designate a bank or banks within the county in which the district is located as the district's depository or treasurer and all funds of the district shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years until a successor has been named.

Inspection of district

Sec. 11. The hospital district established or maintained under provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) that may hereafter be created, and resident officers shall admit such representatives into all hospital district facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the hospital district.

Limiting powers of county and cities

Sec. 12. Except as herein provided, Brazoria County, or any city or town within the hospital district, shall not levy any tax against any property within the hospital district for hospital purposes; and such hospital district shall assume full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said hospital district from the date that taxes are collected for the hospital district.

Patients; inquiry as to ability to pay; liability of relatives

Sec. 13. Whenever a patient residing in the hospital district has been admitted to the facilities of the hospital district, the directors shall cause

inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If they find that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the hospital district for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The district shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the district to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the hospital district. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the district's directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the district court by either party to the dispute.

Donations, gifts and endowments

Sec. 14. Said board of directors of the hospital district is authorized on behalf of said hospital district to accept donations, gifts and endowments for the hospital district to be held in trust and administered by the board of directors for such purposes and under such direction, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the hospital district.

Legal and authorized investments

Sec. 15. All bonds issued by or assumed by the districts authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Suits

Sec. 16. The hospital district created under the provisions of this Act shall be and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this state in the name of such district.

Severability clause

Sec. 17. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the district shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the district or the validity of any other provisions of this Act, and the Legislature hereby declares that it would have created the district and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

Publication of notice

Sec. 18. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and is hereby found and declared to be proper and sufficient to satisfy such requirement. Acts 1963, 58th Leg., p. 361, ch. 135.

Emergency. Effective May 10, 1963.

Art. 4494q—14. Caprock Hospital District

Constitutional authority

Section 1. Pursuant to authority granted by the provisions of Section 9 of Article IX of the Constitution of the State of Texas, Caprock Hospital District is hereby authorized to be created and as created shall have boundaries coextensive with the boundaries of Commissioners Precincts 1, 3 and 4 of Floyd County, as constituted on January 1, 1963, and no territory may be annexed or added to the District. The District shall possess such rights, powers and duties as are hereinafter prescribed.

Purposes of District

Sec. 2. The District herein authorized to be created shall provide for the establishment of hospital or hospital system within its boundaries by the purchase, construction, acquisition, repair or renovation of buildings and improvements and the equipping of same and the administration thereof for hospital purposes. Such district shall assume full responsibility for providing medical and hospital care for its needy inhabitants. There being no hospital, hospital system or hospital facilities of any nature presently owned by Floyd County or any city or town in the boundaries hereinabove set forth, no provisions are made herein for the transfer of properties or equipment or the assumption of outstanding indebtedness heretofore incurred for hospital purposes.

Creation of District

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be called by the Commissioners Court of Floyd County upon presentation of a petition therefor signed by at least fifty (50) qualified property taxpaying electors of the proposed District. Such election shall be held not less than twenty (20) nor more than thirty-five (35) days from the time such election is ordered by the Commissioners Court. The order calling the election shall specify the time and places of holding same, the form of ballot and the presiding judge for each voting place. Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in said District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose. At said election there shall be submitted to the qualified property taxpaying electors of said District the proposition of whether or not the Caprock Hospital District shall be created with authority to levy annual taxes at a rate not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property with-

in such District for the purpose of meeting the requirements of the District's bonds, the indebtedness assumed by it and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR THE CREATION OF CAPROCK HOSPITAL DISTRICT; PROVIDING FOR THE LEVY OF A TAX NOT TO EXCEED SEVENTY-FIVE CENTS (75¢) ON THE ONE HUNDRED DOLLARS (\$100) VALUATION";

and

"AGAINST THE CREATION OF CAPROCK HOSPITAL DISTRICT; PROVIDING FOR THE LEVY OF A TAX NOT TO EXCEED SEVENTY-FIVE CENTS (75¢) ON THE ONE HUNDRED DOLLARS (\$100) VALUATION."

Selection of Directors; tax roll; procedure for tax levy

Sec. 4. Within ten (10) days after such election is held the Commissioners Court in such county shall convene and canvass the returns of the election, and if a majority of the qualified property taxpaying electors voting at said election voted in favor of the proposition, the court shall so find and declare the Hospital District established and created and appoint five (5) persons as directors of the Hospital District to serve until the first Saturday in April following the creation and establishment of the District, at which time five (5) directors shall be elected. The three (3) directors receiving the highest vote at such first election shall serve for two (2) years; the other two (2) directors shall serve for one (1) year. Thereafter, all directors shall serve for a period of two (2) years and until their successor has been duly elected or appointed and qualified. No person shall be appointed or elected as a member of the Board of Directors of said Hospital District unless he is a resident thereof and owns land subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age. Each member of the Board of Directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said District conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the District for safekeeping.

The Board of Directors shall organize by electing one (1) of their number as president and one (1) of their number as secretary. Any three (3) members of the Board of Directors shall constitute a quorum and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the District. All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the Board of Directors. In the event the number of directors shall be reduced to less than three (3) for any reason, the remaining directors shall immediately call a special election to fill said vacancies, and upon failure to do so a district court may, upon application of any voter or taxpayer of the District, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election of directors shall be held on the first Saturday in April of each year and notice of such election shall be published in a newspaper of general circulation in the county one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition, signed

by not less than twenty-five (25) qualified voters asking that such name be printed on the ballot, with the secretary of the Board of Directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of the election.

Upon the creation of such Hospital District, the Board of Directors shall have the power and authority and it shall be their duty to levy on all property subject to Hospital District taxation for the benefit of the District at the same time taxes are levied for county purposes, using the county values and the county tax roll, a tax of not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within the Hospital District, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which may be issued by the Hospital District, for hospital purposes as herein provided; (2) providing for the operation and maintenance of the Hospital District and hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

Powers of Directors

Sec. 5. The Board of Directors shall manage, control and administer the hospitals and hospital system of the District. The District through its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The Board of Directors shall appoint a qualified person to be known as the Administrator or Manager of the Hospital District and may in its discretion appoint an Assistant to the Administrator or Manager. Such Administrator or Manager, and Assistant Administrator or Assistant Manager, if any, shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board. The Administrator or Manager shall, upon assuming his duties, execute a bond payable to the Hospital District in an amount to be set by the Board of Directors, in no event less than Ten Thousand Dollars (\$10,000), conditioned that he shall perform the duties required of him and containing such other conditions as the Board may require. The Administrator or Manager shall supervise all the work and activities of the District subject to such limitations as may be prescribed by the Board. The Board of Directors shall have the authority to employ such technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the District or may provide that the Administrator or Manager shall have the authority to employ such persons. Such Board shall be authorized to contract with any county or incorporated municipality located outside the District for the care and treatment of the sick, diseased or injured persons of any such county or municipality and shall have the authority to contract with the State of Texas and agencies of the Federal Government for treatment of sick, diseased or injured persons for whom the State of Texas or the Federal Government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the Federal Government as may be required to establish or continue a retirement program for the benefit of the District's employees.

Fiscal year—audit—accounting

Sec. 6. The District shall be operated on a fiscal year commencing on October 1st of each year and ending on September 30th of the succeeding year and it shall cause an audit to be made of the financial condition of said District which shall at all times be open to inspection at the principal office of the District. In addition, the Administrator or Manager shall pre-

pare an annual budget for approval by the Board of Directors of said District. As soon as practical after the close of each fiscal year, the Administrator or Manager shall prepare for the Board a full sworn statement of all moneys belonging to the District and a full account of the disbursements of same.

Authorization of bonds and levy of tax

Sec. 7. The Board of Directors of the Hospital District shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such Hospital District for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospitals and the hospital system, as determined by the Board, and for any or all of such purposes. At the time of the issuance of any such bonds, a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed Seventy Five Cents (75¢) on each One Hundred Dollars (\$100) valuation of taxable property in any one (1) year. Such bonds shall be issued under the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, but shall be executed in the name of the Hospital District and in its behalf by the President of the Board and attested by the Secretary as provided by Article 717j-1, V.A.T.C.S., and shall be subject to the same requirements in the matter of the approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bond shall be issued by such Hospital District except refunding bonds, until authorized by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be called by the Board of Directors and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, and except as therein otherwise provided, shall be conducted in accordance with the General Laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The election order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate of interest they are to bear, the place or places where the election shall be held and the presiding officers thereof.

The bonds of the District may be issued for the purpose of refunding and paying off any bond or other refundable indebtedness issued by the District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of any outstanding bonds or other refundable indebtedness, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds or refundable indebtedness; provided that if such refunding bonds are to be exchanged for a like amount of said outstanding bonds or other refundable indebtedness, the interest thereon computed in accordance with recognized standard bond interest cost tables shall not exceed the average interest cost per annum so computed upon the bonds or other indebtedness to be refunded; and provided further, that if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness same shall be issued and payments made in the manner specified by Article 717k, Revised Civil Statutes of Texas, as amended.

Bonds exempt from taxation

Sec. 8. In carrying out the purposes of this Act the District will be performing an essential public function and any bonds issued by it and their transfer and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the state or any municipality or political subdivision thereof.

Purchases and expenditures

Sec. 9. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures, by and for such Hospital District, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act.

District depository

Sec. 10. The Board of Directors of the District shall name one (1) or more banks within the District to serve as depository for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District in time that such money may be received by said bank or banks of payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

Bonds eligible for investment and to secure deposits

Sec. 11. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

Eminent domain

Sec. 12. The District created hereunder shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the District, necessary or convenient to the powers, rights and privileges conferred by this Act, in the manner provided by General Law with respect to condemnation.

Levy, assessment and collection of taxes

Sec. 13. District taxes shall be assessed and collected in the same manner as provided by law with relation to county taxes. The Tax Assessor and/or Collector of Floyd County shall be charged and required to

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

accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District depository, and shall charge such compensation therefor as may be provided for by contract with the District but not to exceed the amount allowed for assessment and collection of county taxes. All such fees shall be deposited in the county's general fund and shall be reported as fees of office of the Tax Assessor-Collector. The bond of the County Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District, or, if in the judgment of the District Board of Directors, it is necessary that additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, the County Tax Assessor-Collector shall be authorized to act in all respects according to the laws of the State of Texas relating to state and county taxes.

The Board of Directors shall have the authority to levy the tax aforesaid for the entire year in which the said Hospital District is established, for the purpose of securing funds to initiate the operation of the Hospital District.

Patients; inquiry as to the ability to pay; liability of relative

Sec. 14. Whenever a patient residing within the District has been admitted to the facilities thereof, the Administrator or Manager shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment, in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the Hospital District for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The Administrator or Manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable for his support in the manner provided by law for the collection of expenses in the last illness of a deceased person. If the Administrator or Manager finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, same shall become a charge upon the Hospital District as to the amount of the inability to pay. Should there be any dispute as to the ability to pay or doubt in the mind of the Administrator or Manager, the Board of Directors shall hear and determine same, after calling witnesses, and shall make such order or orders as may be proper.

Donations

Sec. 15. The Board of Directors of the Hospital District is authorized on behalf of such District to accept donations, gifts and endowments to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and object of the Hospital District.

Annual budget

Sec. 16. The Board of Directors of said Hospital District shall cause to be prepared an annual budget based upon the fiscal year of the Hospital District in accordance with the provisions of Section 5 hereof and prior to September 1st of each year shall give notice of the public hearing on the proposed budget. Such notice shall be published in a newspaper of general circulation in the District one (1) time at least ten (10) days prior to the date set for the hearing.

District alone to incur indebtedness for hospital purposes

Sec. 17. After creation of Caprock Hospital District as herein provided, no other municipality or political subdivision therein shall thereafter issue bonds or other evidence of indebtedness or levy taxes for hospital purposes for medical treatment of indigent persons and the said Caprock Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons within its boundaries.

State not to be obligated

Sec. 18. The support and maintenance of the Caprock Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

Severability clause

Sec. 19. If any of the provisions 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.

Publication of notice

Sec. 20. Proof of publication of the notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1963, 58th Leg., p. 642, ch. 238.

Emergency. Effective May 30, 1963.

Art. 4494q—15. North Wheeler County Hospital District

Constitutional authority

Section 1. Pursuant to authority granted by the provisions of Section 9 of Article IX of the Constitution of the State of Texas, North Wheeler County Hospital District is hereby authorized to be created and as created shall have boundaries coextensive with the boundaries of Commissioners' Precincts 1 and 2 of Wheeler County, as constituted on January 1, 1963, and possess such rights, powers and duties as are hereinafter prescribed.

Purposes of District

Sec. 2. The District herein authorized to be created shall provide for the establishment of a hospital or hospital system within said District by the purchase, construction, acquisition, repair or renovation of buildings and improvements and the equipping of same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants. There being no hospital, hospital system or hospital facilities of any nature presently owned by Wheeler County or any city or town therein no provisions are made herein for the transfer of properties or equipment or the assumption of any outstanding indebtedness incurred by them for hospital purposes such as is permitted by the aforementioned constitutional provision in the case of existing county, city or town hospitals, hospital systems or hospital facilities.

Creation of District

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election may be initiated by the Commissioners Court of Wheeler County upon its own motion and shall be called by said Commissioners Court upon presentation of a petition therefor signed by at least fifty (50) qualified property taxpaying electors of the District. Such election shall be held not less than thirty (30) nor more than sixty (60) days from the time such election is ordered by the Commissioners Court. The order calling the election shall specify the time and places of holding same, the form of ballot and the presiding judge for each voting place. Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in said District, once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose. At said election there shall be submitted to the qualified property taxpaying electors of said District the proposition of whether or not North Wheeler County Hospital District shall be created with authority to levy annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds, and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR the creation of a hospital district; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation, and using Wheeler County, Texas, values and the Wheeler County, Texas, tax roll.", and

"AGAINST the creation of a hospital district; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation, and using Wheeler County, Texas, values and the Wheeler County, Texas, tax roll."

District management

Sec. 4. Within ten (10) days after such election is held the Commissioners Court of said County shall convene and canvass the returns thereof and in the event such election results favorably to the proposition specified in Section 3 hereof, such District shall be governed by a Board of Directors to consist of five (5) members, who shall serve without pay. Each such Director must at the time of his election or appointment hereunder, be a resident of the District, own property subject to taxation therein and be more than twenty-one (21) years of age. Not less than fifteen (15) nor more than twenty-five (25) days after the District is declared established and created the Commissioners Court shall call an election for the five (5) Directors who will serve as the District's first Board of Directors, this election to be held on a date not more than thirty (30) days after the day of the passage of the Commissioners Court order calling same but on such date as will permit publication of an election notice in a newspaper of general circulation in Wheeler County one (1) time not less than ten (10) days prior to such election date. Any candidate desiring to be voted upon as a first Director shall, no later than three (3) days prior to the day

of passage of the Commissioners Court order calling the election, present a petition to that Court signed by such candidate and not less than five (5) qualified voters residing in the candidate's voting precinct, requesting that his name be placed upon the official ballot. For the purpose of electing Directors, the Hospital District shall be divided into five (5) voting precincts which shall be made up of the parts of the following school districts which lie within the Hospital District, using school district boundaries as of January 1, 1963, as follows: Allison, Kelton, Briscoe, Wheeler plus any part of Sections 14 and 15 of Block 27, H & G.N. Survey that are within the boundaries of the Hospital District, and Mobeetie plus any part of Sections 69 and 70 of Block 24 of H and G.N. Survey that are within the boundaries of the Hospital District. Any territory within the Hospital District, but not within one of the five (5) school districts, shall be added to the nearest Hospital District voting precinct by the action of the Board of Directors of the Hospital District. Each voting precinct of the Hospital District shall be represented by one (1) Director who must reside within the voting precinct. The regular term of each Director shall be for two (2) years but after the first called election, the Directors by lot shall select three (3) Directors for two (2) year terms, and two (2) Directors for one (1) year terms. The first year terms shall be ended on the date of the first annual election as hereinafter provided. No person shall be appointed or elected as a member of the Board of Directors of said Hospital District unless he is a resident of the voting precinct thereof and owns property subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age. Each member of the Board of Directors shall qualify by executing the constitutional oath of office and shall execute a good and sufficient commercial bond for One Thousand Dollars (\$1,000) payable to said District conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the District for safekeeping. The cost of this bond shall be an expense of the Hospital District.

The Board of Directors shall organize by electing one (1) of their number as president, and one (1) as vice president and one (1) as secretary. Any three (3) members of the Board of Directors shall constitute a quorum and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the District. All vacancies in the office of Director shall be filled for the unexpired term by appointment of the remainder of the Board of Directors. In the event the number of Directors shall be reduced to less than three (3) for any reason, the remaining Directors shall immediately call a special election to fill said vacancies, and upon failure to do so a District Court may, upon application of any voter or taxpayer of the District, issue a mandate requiring that such election be ordered by the remaining Directors.

A regular election of Directors shall be held on the same day that the election of trustees of public schools is held each year and notice of such election shall be published in a newspaper of general circulation in the County one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for Director shall file a petition, signed by not less than five (5) qualified voters residing in the candidate's voting precinct asking that such name be printed on the ballot, with the secretary of the Board of Directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election. All qualified electors residing within the District shall be eligible to vote for Directors; provided, however, that such eligible elector can vote only to select a Director from the Hospital District voting precinct of the residence of such elector.

Powers of Directors

Sec. 5. The Board of Directors shall manage, control and administer the hospitals and hospital system of the District. The District through its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The Board of Directors shall appoint a qualified person to be known as the Administrator or Manager of the Hospital District and may in its discretion appoint an Assistant to the Administrator or Manager. Such Administrator or Manager, and Assistant Administrator or Assistant Manager, if any, shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board. The Administrator or Manager shall, upon assuming his duties, execute a bond payable to the Hospital District in an amount to be set by the Board of Directors, in no event less than Ten Thousand Dollars (\$10,000), conditioned that he shall perform the duties required of him and containing such other conditions as the Board may require. The Administrator or Manager shall supervise all the work and activities of the District and shall have general direction of the affairs of the District subject to such limitations as may be prescribed by the Board. The Board of Directors shall have the authority to employ such doctors, technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the District or may provide that the Administrator or Manager shall have the authority to employ such persons. Such Board shall be authorized to contract with any county or incorporated municipality located outside Wheeler County for the care and treatment of the sick, diseased or injured persons of any such county or municipality and shall have the authority to contract with the State of Texas and agencies of the Federal Government, for treatment of sick, diseased or injured persons for whom the State of Texas or the Federal Government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the Federal Government as may be required to establish or continue a retirement program for the benefit of the District's employees.

Fiscal year—audit—accounting

Sec. 6. The District shall be operated on a fiscal year commencing on October 1st of each year and ending on September 30th of the succeeding year and it shall cause an audit to be made of the financial condition of said District which shall at all times be open to inspection at the principal office of the District. In addition the Administrator or Manager shall prepare an annual budget for approval by the Board of Directors of said District. As soon as practical after the close of each fiscal year the Administrator or Manager shall prepare for the Board a full sworn statement of all moneys belonging to the District and a full account of the disbursements of same.

Authorization of bonds and levy of tax

Sec. 7. The Board of Directors of the Hospital District shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such Hospital District for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospitals and the hospital system, as determined by the Board, and for any or all of such purposes. The first issue of bonds of the District shall not exceed a maximum interest rate of six per cent (6%) per annum. At the time of the issuance of any such bonds a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, pro-

viding such tax together with any other taxes levied for said District shall not exceed seventy-five cents (75¢) on each One Hundred Dollar (\$100) valuation of taxable property in any one year. Such bonds shall be issued under the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, but shall be executed in the name of the Hospital District and in its behalf by the President of the Board and attested by the Secretary as provided by Article 717j—1, Vernon's Civil Statutes, and shall be subject to the same requirements in the matter of the approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bond shall be issued by such Hospital District except refunding bonds, until authorized by a majority of the qualified electors of the District who own taxable property therein and who have duly rendered the same for taxation, voting at an election called for such purpose. Such election shall be called by the Board of Directors and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, and except as therein otherwise provided, shall be conducted in accordance with the General Laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The bond election order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate of interest they are to bear, the place or places where the election shall be held and the presiding officers thereof.

The bonds of the District may be issued for the purpose of refunding and paying off any bonds theretofore issued by such District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of outstanding bonds, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds provided that if refunding bonds are to be exchanged for a like amount of said outstanding bonds, such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid on said refunding bonds; and provided further that if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness same shall be issued and payments made in the manner specified by Article 717k, Revised Civil Statutes of Texas, as amended.

Bonds exempt from taxation

Sec. 8. In carrying out the purposes of this Act the District will be performing an essential public function and any bonds issued by it and their transfer and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the State or any municipality or political subdivision thereof.

Purchases and expenditures

Sec. 9. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures, by and for such Hospital District, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act.

District depository

Sec. 10. The Board of Directors of the District shall name one or more banks within Wheeler County to serve as depository for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District or other obligations assumed by it and in time that such money may be received by said bank or banks of payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

Bonds eligible for investment and to secure deposits

Sec. 11. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

Eminent domain

Sec. 12. North Wheeler County Hospital District created hereunder shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the District, necessary or convenient to the powers, rights and privileges conferred by this Act, in the manner provided by General Law with respect to condemnation.

Levy, assessment and collection of taxes

Sec. 13. The District shall use Wheeler County, Texas, tax values and Wheeler County, Texas, tax rolls. District taxes shall be assessed and collected in the same manner as provided by law with relation to County taxes. The Tax Assessor and/or Collector of Wheeler County shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District Depository. For his services the County Tax Assessor-Collector shall be allowed such compensation as may be provided for by contract with the District but not to exceed the amount allowed for assessment and collection of County taxes. Provided further that the amount allowed for collection shall not exceed one per cent (1%) of the amounts collected as may be determined by the Board of Directors but in no event in excess of Two Thousand, Five Hundred Dollars (\$2,500) for any one (1) fiscal year. The bond of the County Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District, or, if in the judgment of the District Board of Directors, it is

necessary that additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, the County Tax Assessor-Collector shall be authorized to act in all respects according to the laws of the State of Texas relating to State and County taxes.

Patients: inquiry as to the ability to pay: liability of relative

Sec. 14. Whenever a patient residing within the District has been admitted to the facilities thereof, the Administrator or Manager, shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment, in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the Hospital District for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The Administrator or Manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable for his support in the manner provided by law for the collection of expenses in the last illness of a deceased person. If the Administrator or Manager finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, same shall become a charge upon the Hospital District as to the amount of the inability to pay. Should there be any dispute as to the ability to pay or doubt in the mind of the Administrator or Manager, the Board of Directors shall hear and determine same, after calling witnesses, and shall make such order or orders as may be proper.

Donations

Sec. 15. The Board of Directors of the Hospital District is authorized on behalf of such District to accept donations, gifts and endowments to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and object of the Hospital District.

Annual budget

Sec. 16. The Board of Directors of said Hospital District shall cause to be prepared an annual budget based upon the fiscal year of the Hospital District in accordance with the provisions of Section 6 hereof and prior to September 1st of each year shall give notice of the public hearing on the proposed budget. Such notice shall be published in a newspaper of general circulation in the County at least ten (10) days prior to the date set for the hearing.

District alone to incur indebtedness for hospital purposes

Sec. 17. After creation of North Wheeler County Hospital District, neither Wheeler County or no other municipality or political subdivision shall thereafter issue bonds or other evidences of indebtedness or levy taxes for hospital purposes for medical treatment of indigent persons within said District and the said North Wheeler County Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons.

State not to be obligated

Sec. 18. The support and maintenance of the North Wheeler County Hospital District shall never become a charge against or obligation of the

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

State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

Severability clause

Sec. 19. If any of the provisions 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.

Publication of notice

Sec. 20. Proof of Publication of the notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1963, 58th Leg., p. 703, ch. 260.

Emergency. Effective May 30, 1963.

Art. 4494q—16. South Wheeler County Hospital District

Constitutional authority

Section 1. Pursuant to authority granted by the provisions of Section 9 of Article IX of the Constitution of the State of Texas, South Wheeler County Hospital District is hereby authorized to be created and as created shall have boundaries coextensive with the boundaries of Commissioners Precincts 3 and 4 of Wheeler County, as constituted on January 1, 1963, and possess such rights, powers and duties as are hereinafter prescribed.

Purposes of District

Sec. 2. The District herein authorized to be created shall take over and there shall be transferred to it the title to all lands, buildings, improvements and equipment in anywise pertaining to hospitals owned by any city or town thereof and thereafter it shall provide for the establishment of a hospital system by the purchase, construction, acquisition, repair or renovation of buildings and equipment and the equipping of same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants and shall assume the outstanding indebtedness which shall have been incurred by any city or town therein for hospital purposes prior to the creation of the District.

Creation of District

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election may be initiated by the Commissioners Court of Wheeler County upon its own motion and shall be called by said Commissioners Court upon presentation of a petition therefor signed by at least fifty (50) qualified property taxpaying electors of the District. Such election shall be held not less than twenty (20) nor more than thirty-five (35) days from the time such election is ordered by the Commissioners Court. The order calling the election shall specify the time and places of holding same, the form of ballot and the presiding judge for each voting place. Notice of election shall be given by publishing a

substantial copy of the election order in a newspaper of general circulation in said District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose. At said election there shall be submitted to the qualified property taxpaying electors of said District the proposition of whether or not South Wheeler County Hospital District shall be created with authority to levy annual taxes at a rate not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds, the indebtedness assumed by it and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR the creation of South Wheeler County Hospital District, the levy of a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100) valuation and the assumption by such District of all outstanding bonds and indebtedness heretofore issued and incurred by any city or town in said District for hospital purposes"; and

"AGAINST the creation of South Wheeler County Hospital District, the levy of a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100) valuation, and the assumption by such District of all outstanding bonds and indebtedness heretofore issued and incurred by any city or town in said District for hospital purposes."

District management

Sec. 4. Within ten (10) days after such election is held, the Commissioners Court in such county shall convene and canvass the returns thereof, and in the event such election results favorably to the proposition specified in Section 3 hereof, the Court shall so find and declare the Hospital District established and created, and appoint seven (7) persons as directors of the Hospital District to serve until the first Saturday in April following the creation and establishment of the District at which time seven (7) directors shall be elected. Two (2) directors shall be residents of Commissioners Court Precinct 3 who shall be elected by the qualified voters of the Precinct; two (2) directors shall be residents of Commissioners Court Precinct 4 who shall be elected by the qualified voters of the Precinct; three (3) directors shall be residents of either Commissioners Court Precincts 3 or 4 and shall be elected by the voters of both Precincts. After the first election the directors representing each Precinct shall have a one (1) year term. The other three (3) directors representing both Precincts shall have two (2) year terms. Thereafter, all directors shall serve for a period of two (2) years and until their successor has been duly elected or appointed and qualified. No person shall be appointed or elected as a member of the board of directors of said Hospital District unless he is a resident thereof and owns property subject to taxation therein and unless at the time of such election or appointment he shall be more than twenty-one (21) years of age. Each member of the board of directors shall qualify by executing the Constitutional Oath of Office and shall execute a good and sufficient bond for One Thousand Dollars (\$1,000) payable to said District conditioned upon the faithful performance of his duties, and such oaths and bonds shall be deposited with the depository bank of the District for safekeeping.

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

The board of directors shall organize by electing one (1) of their number as president and one (1) as vice president and one (1) as secretary. Any four (4) members of the board of directors shall constitute a quorum and a concurrence of four (4) shall be sufficient in all matters pertaining to the business of the District. All vacancies in the office of director shall be filled for the unexpired term by appointment of the remainder of the board of directors. In the event the number of directors shall be reduced to less than four (4) for any reason, the remaining directors shall immediately call a special election to fill said vacancies, and upon failure to do so a district court may, upon application of any voter or taxpayer of the District, issue a mandate requiring that such election be ordered by the remaining directors.

A regular election of directors shall be held on the first Saturday in April of each year and notice of such election shall be published in a newspaper of general circulation in the county one (1) time at least ten (10) days prior to the date of election. Any person desiring his name to be printed on the ballot as a candidate for director shall file a petition, signed by not less than ten (10) qualified voters asking that such name be printed on the ballot, with the secretary of the board of directors of the District. Such petition shall be filed with such secretary at least twenty-five (25) days prior to the date of election.

Powers of directors

Sec. 5. The board of directors shall manage, control and administer the hospitals and hospital system of the District. The District through its board of directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The board of directors shall appoint a qualified person to be known as the administrator or manager of the Hospital District and may in its discretion appoint an assistant to the administrator or manager. Such administrator or manager, and assistant administrator or assistant manager, if any, shall serve at the will of the board and shall receive such compensation as may be fixed by the board. The administrator or manager shall, upon assuming his duties, execute a bond payable to the Hospital District in an amount to be set by the board of directors, in no event less than Ten Thousand Dollars (\$10,000), conditioned that he shall perform the duties required of him and containing such other conditions as the board may require. The administrator or manager shall supervise all the work and activities of the District and shall have general direction of the affairs of the District subject to such limitations as may be prescribed by the board. The board of directors shall have the authority to employ such doctors, technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the District or may provide that the administrator or manager shall have the authority to employ such persons. Such board shall be authorized to contract with any county or incorporated municipality located outside the District for the care and treatment of the sick, diseased or injured persons of any such county or municipality and shall have the authority to contract with the State of Texas and agencies of the Federal Government, for treatment of sick, diseased or injured persons for whom the State of Texas or the Federal Government are responsible. The board of directors is also authorized to enter into such contracts or agreements with the State of Texas or the Federal Government as may be required to establish or continue a retirement program for the benefit of the District's employees.

Fiscal year—audit—accounting

Sec. 6. The District shall be operated on a fiscal year commencing on October 1st of each year and ending on September 30th of the succeeding year and it shall cause an audit to be made of the financial condition of said District which shall at all times be open to inspection at the principal office of the District. In addition the administrator or manager shall prepare an annual budget for approval by the board of directors of said District. As soon as practical after the close of each fiscal year the administrator or manager shall prepare for the board a full sworn statement of all moneys belonging to the District and a full account of the disbursements of same.

Transfer of hospital facilities and assumption of indebtedness and assets

Sec. 7. All lands, buildings and equipment that at the time of the creation of the District are owned by any city or town therein and which were acquired by them for the purpose of providing hospital service or care for patients of such city shall become the property of South Wheeler County Hospital District and the governing body of any such city or town shall provide by order that all property so owned shall be conveyed to the South Wheeler County Hospital District in consideration of the Hospital District assuming all debts and obligations arising from the acquisition, construction and operation of such city or town hospital facilities. The Hospital District through its board of directors shall by resolution, accept said properties and shall assume all the liabilities, and obligations, including bonds and warrants incurred by such city or town for such hospital purposes.

District shall have charge of all hospital funds

Sec. 8. Any funds remaining in the hands of any city or town therein, as the proceeds of bonds assumed by the District, as herein provided, shall forthwith be transferred to and become the funds of the Hospital District and title thereto shall vest in such District. There shall also vest in said District and become the funds thereof the unspent portion of any other funds theretofore set up or appropriated by budget or otherwise by any city or town thereof for the support and maintenance of hospital facilities for the year within which the Hospital District is created, thereby providing such Hospital District with funds with which to maintain and operate such facilities for the remainder of such year. Any uncollected or delinquent taxes levied for hospital purposes by any city or town thereof, as collected, shall be paid to the District and applied by it to the purposes for which such taxes originally were levied. Any and all obligations under contracts legally incurred by any city or town therein for the building or the support and maintenance of hospital facilities prior to the creation of said District but outstanding at the time of its creation shall be assumed and discharged by such District without prejudice to the rights of third parties. It is provided that the management and control of the property and affairs of any hospital system or systems owned and operated by any city or town thereof shall continue in the existing board of managers until appointment and organization of the board of directors of the Hospital District, at which time the board of managers of the present hospital or hospital system shall turn over all records, property and affairs of said hospital system to the board of directors of the District and shall cease to exist as a board of managers of the existing hospital system.

The governing body of any city therein owning the hospital or hospital system, as the case may be, as soon as the Hospital District is created and authorized at the election hereinabove provided, and there have been ap-

pointed and qualified the board of hospital directors above provided for, shall execute and deliver to the Hospital District, to wit: to its board of directors an instrument in writing conveying to said Hospital District the hospital properties including management, buildings and equipment, and shall transfer to said Hospital District the funds hereinabove provided to be vested in the Hospital District. Such funds, in the hands of the Hospital District and its board of directors shall be used for all or any of the same purposes and for no other purposes than, the purposes for which the county or city transferring such funds could lawfully have used the same had they remained the property and funds of such county or city.

Authorization of bonds and levy of tax

Sec. 9. The board of directors of the Hospital District shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such Hospital District for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospitals and the hospital system, as determined by the board, and for any or all of such purposes. At the time of the issuance of any such bonds a tax shall be levied by the board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed Seventy-five Cents (75¢) on each One Hundred Dollars (\$100) valuation of taxable property in any one (1) year. Such bonds shall be issued under the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, but shall be executed in the name of the Hospital District and in its behalf by the president of the board and attested by the secretary and shall be subject to the same requirements in the matter of the approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bonds shall be issued by such Hospital District except refunding bonds, until authorized by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be called by the board of directors and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, and except as therein otherwise provided, shall be conducted in accordance with the General Laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The election order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate of interest they are to bear, the place or places where the election shall be held and the presiding officers thereof.

The bonds of the District may be issued for the purpose of refunding and paying off any bond or other refundable indebtedness issued or assumed by the District and any bond issued by such District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of any outstanding bonds or other refundable indebtedness, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds or refundable indebtedness; provided that if such refunding bonds are to be exchanged for a like amount of said outstanding bonds or other refundable indebtedness the interest thereon computed in accordance with recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed upon the bonds or other indebtedness to be refunded; and provided further that if such re-

funding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness same shall be issued and payments made in the manner specified by Article 717k, Revised Civil Statutes of Texas, as amended.

If any city or town therein has voted bonds to provide hospital facilities but such bonds have not been sold as of the date of the creation of the District, the authority for the issuance and sale of such bonds shall thereupon be cancelled and they shall not be issued or sold after the creation of the District.

Bonds exempt from taxation

Sec. 10. In carrying out the purposes of this Act the District will be performing an essential public function and any bonds issued by it and their transfer and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the State or any municipality or political subdivision thereof.

Purchases and expenditures

Sec. 11. The board of directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures, by and for such Hospital District, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act.

District depository

Sec. 12. The board of directors of the District shall name one (1) or more banks within the District to serve as depository for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District or other obligations assumed by it and in time that such money may be received by said bank or banks of payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the board of directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

Bonds eligible for investment and to secure deposits

Sec. 13. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

Eminent domain

Sec. 14. South Wheeler County Hospital District created hereunder shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character

in fee simple, or any lesser interest therein, within the boundaries of the District, necessary or convenient to the powers, rights and privileges conferred by this Act, in the manner provided by General Law with respect to condemnation.

Levy, assessment and collection of taxes

Sec. 15. District taxes shall be assessed and collected in the same manner as provided by law with relation to county taxes. The Tax Assessor and/or Collector of Wheeler County shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District depository. For his services the County Tax Assessor-Collector shall be allowed such compensation as may be provided for by contract with the District but not to exceed the amount allowed for assessment and collection of county taxes. The bond of the County Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District, or, if in the judgment of the District board of directors, it is necessary that additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, the County Tax Assessor-Collector shall be authorized to act in all respects according to the laws of the State of Texas relating to State and county taxes.

Patients; inquiry as to the ability to pay; liability of relative

Sec. 16. Whenever a patient residing within the District has been admitted to the facilities thereof, the administrator or manager, shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment, in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the Hospital District for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The administrator or manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable for his support in the manner provided by law for the collection of expenses in the last illness of a deceased person. If the administrator or manager finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, same shall become a charge upon the Hospital District as to the amount of the inability to pay. Should there be any dispute as to the ability to pay or doubt in the mind of the administrator or manager, the board of directors shall hear and determine same, after calling witnesses, and shall make such order or orders as may be proper.

Donations

Sec. 17. The board of directors of the Hospital District is authorized on behalf of such District to accept donations, gifts and endowments to be held in trust and administered by the board of directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and object of the Hospital District.

Annual budget

Sec. 18. The board of directors of said Hospital District shall cause to be prepared an annual budget based upon the fiscal year of the Hospital District in accordance with the provisions of Section 6 hereof and prior

to September 1st of each year shall give notice of the public hearing on the proposed budget. Such notice shall be published in a newspaper of general circulation in the county at least ten (10) days prior to the date set for the hearing.

District alone to incur indebtedness for hospital purposes

Sec. 19. After creation of South Wheeler County Hospital District, no other municipality or political subdivision therein shall thereafter issue bonds or other evidences of indebtedness or levy taxes for hospital purposes for medical treatment of indigent persons and the said South Wheeler County Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons.

State not to be obligated

Sec. 20. The support and maintenance of the South Wheeler County Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

Severability clause

Sec. 21. If any of the provisions 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.

Publication of notice

Sec. 22. Proof of publication of the notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1963, 58th Leg., p. 711, ch. 261.

Emergency. Effective May 30, 1963.

Art. 4494q—17. Titus County Hospital District

Constitutional authority

Section 1. In accordance with the provisions of Article IX, Section 9, Constitution of the State of Texas, this Act shall be operative so as to authorize the creation, establishment, maintenance and operation of a Hospital District within the State of Texas, to be known as Titus County Hospital District, and the boundaries of said District shall be coextensive with the boundaries of Titus County (hereinafter referred to as the "County"), and said District shall have the powers and responsibilities provided by the aforesaid Constitutional provision.

Purpose of district; election; ballots

Sec. 2. That said District hereby provided for shall assume full responsibility for providing medical and hospital care for the needy residing within the District; provided, however, that such Hospital District shall not be created unless and until an election is duly held in said County for such purpose, which said election may be initiated by the Commissioners Court upon its own motion or upon a petition of fifty (50) resident quali-

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fied property taxpaying voters, to be held not less than thirty (30) days from the time said election is ordered by the Commissioners Court. At such election there shall be submitted to the qualified property taxpaying voters the proposition of whether or not a Hospital District shall be created in the County; and a majority of the qualified property taxpaying electors participating in said election voting in favor of the proposition shall be necessary. The ballots for said election shall have printed thereon:

“FOR the creation of a Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation; and providing for the assumption by such District of all outstanding bonds heretofore issued by Titus County for hospital purposes”; and

“AGAINST the creation of a Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation; and providing for the assumption by such District of all outstanding bonds heretofore issued by Titus County for hospital purposes.”

Levy and collection of tax

Sec. 3. The Commissioners Court of the County shall have the power and authority, and it shall be its duty, to levy on all property subject to hospital district taxation, for the benefit of the District at the same time taxes are levied for county purposes, using the county values and the county tax roll, a tax of not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within the Hospital District, for the purpose of (1) paying the interest on and creating a sinking fund for bonds which may have been assumed or which may be issued by the Hospital District for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital or hospital system; and (3) when requested by the Board of Hospital Managers of the Hospital District and approved by the Commissioners Court, for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

The tax so levied shall be collected on all property subject to hospital district taxation by the Assessor and Collector of taxes for the County on the county tax values, and in the same manner and under the same conditions as county taxes. The Assessor and Collector of taxes shall charge and deduct from payments to the Hospital District the fees for assessing and collecting the tax at the rate of not exceeding two per cent (2%) of the amounts collected as may be determined by the Commissioners Court. Such fees shall be deposited in the County's General Fund, and shall be reported as fees of Office of the Tax Assessor and Collector. Interest and penalties on taxes paid to the Hospital District shall be the same as in the case of county taxes. Discounts shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the district depository; and such funds shall be withdrawn only as provided herein. All other income of the Hospital District shall be deposited in like manner with the district depository. Warrants against the Hospital District funds shall not require the signature of the County Clerk.

The Commissioners Court shall have the authority to levy the tax aforesaid for the entire year in which the said Hospital District is established, for the purpose of securing funds to initiate the operation of the Hospital District, and to pay assumed bonds.

Authorization of bonds

Sec. 4. The Commissioners Court shall have the power and authority to issue and sell as the obligations of such Hospital District, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures provided said tax together with any other taxes levied for said District shall not exceed seventy-five cents (75¢) on the One Hundred Dollar valuation in any one year. Such bonds shall be executed in the name of the Hospital District and on its behalf by the County Judge of the County, and countersigned by the County Clerk, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided for such approval and registration of bonds of such County; and the approval of such bonds by the Attorney General shall have the same force and effect as is by law given to his approval of bonds of the County. No bonds shall be issued by such Hospital District (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying voters residing in such Hospital District voting at an election called and held in accordance with the provisions of Chapter 1, Title 22, of the Revised Civil Statutes of the State of Texas, 1925, as amended, relating to county bonds. Such election may be called by the Commissioners Court on its own motion, or shall be called by it after request therefor by the Board of Hospital Managers of the District; and the same persons shall be responsible for the conduct of such election and arrangement of all details thereof as the persons charged therewith in connection with other county-wide elections. The cost of any such election shall be a charge upon the Hospital District and its funds; and the Hospital District shall make provision for the payment thereof before the Commissioners Court shall be required to order such an election.

In the manner hereinabove provided, the bonds of such Hospital District may, without the necessity of any election therefor, be issued for the purpose of refunding and paying off any bonded indebtedness theretofore assumed by the Hospital District and any bonds theretofore issued by the Hospital District; such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding bonds or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and interest matured thereon, but unpaid; provided the average interest cost per annum on the refunding bonds, computed in accordance with the recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed upon the bonds to be discharged out of the proceeds of the refunding bonds, unless the total interest cost on the refunding bonds, computed to their respective maturity dates, is less than the total interest cost so computed on the bonds to be discharged out of such proceeds. In the foregoing computations, any premium or premiums required to be paid upon the bonds to be refunded as a condition to payment in advance of their stated maturity dates shall be taken into account as an addition to the net interest cost to the Hospital District of the refunding bonds.

Transfer of hospital facilities and assumption of indebtedness and assets

Sec. 5. Any lands, buildings or equipment that may be owned by the County, and by which medical services or hospital care, including geriatric

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care, are furnished to the indigent or needy persons of the County, shall become the property of the Hospital District; and title thereto shall vest in the Hospital District; and any funds of the County which are the proceeds of any bonds assumed by the Hospital District, as hereby provided, shall become the funds of the Hospital District; and title thereto shall vest in the Hospital District; and there shall vest in the Hospital District and become the funds of the Hospital District the unspent portions of any funds theretofore set up or appropriated by budget or otherwise by the County for the support and maintenance of the hospital facilities for the year within which the Hospital District comes into existence, thereby providing such Hospital District with funds with which to maintain and operate such facilities for the remainder of such year. All obligations under contract legally incurred by the County for the building of, or the support and maintenance of, hospital facilities, prior to the creation of the said District but outstanding at the time of the creation of the District, shall be assumed and discharged by it without prejudice to the rights of third parties, provided that the management and control of the property and affairs of the present hospital system shall continue in the Board of Managers of the present hospital system until appointment and organization of the Board of Hospital Managers of the Hospital District, at which time the Board of Managers of the present hospital system shall turn over all records, property and affairs of said hospital system to the Board of Hospital Managers of the Hospital District.

Any outstanding bonded indebtedness incurred by the County in the acquisition of such lands, buildings and equipment, or in the construction and equipping of such hospital facilities, together with any other outstanding bonds issued by the County for hospital purposes, and the proceeds of which are in whole or in part still unspent, shall be assumed by the Hospital District and become the obligation of the Hospital District; and the County shall be by the Hospital District relieved of any further liability for the payment thereof, or for providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against the payment of the principal or interest on any of such bonds in accordance with their respective terms.

The Commissioners Court, as soon as the Hospital District is created and authorized at the election hereinabove provided, and there have been appointed and qualified the Board of Hospital Managers hereinafter provided for, shall execute and deliver to the Hospital District, to wit: to its said Board of Hospital Managers, an instrument in writing conveying to said Hospital District the hospital property, including lands, buildings and equipment; and shall transfer to said Hospital District the funds hereinabove provided to become vested in the Hospital District, upon being furnished the certificate of the Chairman of the Board to the fact that a depository for the District's funds has been selected and has qualified; which funds shall, in the hands of the Hospital District and of its Board of Hospital Managers, be used for all or any of the same purposes as, and for no other purposes than, the purposes for which the County could lawfully have used the same had they remained the property and funds of such County.

Board of hospital manager; administrator

Sec. 6. The Commissioners Court shall appoint a Board of Hospital Managers, consisting of six (6) members who shall serve for a term of two (2) years, with overlapping terms if desired, and with initial appointments to terms of office arranged accordingly. Failure of any member of the

Board of Hospital Managers to attend three (3) consecutive regular meetings of the Board shall cause a vacancy in the office, unless such absence is excused by formal action of the Board. The Board of Hospital Managers shall serve without compensation, but may be reimbursed for their actual and necessary traveling and other expenses incurred in the performance of their duties as determined by the Board of Hospital Managers. The duties of the Board of Hospital Managers shall be to manage, control and administer the hospital or hospital system of the Hospital District. The Board of Hospital Managers shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the hospital or hospital system.

The Board shall appoint a general manager, to be known as the Administrator of the Hospital District. The Administrator shall hold office for a term not exceeding two (2) years and shall receive such compensation as may be fixed by the Board. The Administrator shall be subject to removal at any time by the Board. The Administrator shall, before entering into the discharge of his duties, execute a bond payable to the District, in the amount of not less than Ten Thousand Dollars (\$10,000), conditioned that he shall well and faithfully perform the duties required of him, and containing such other conditions as the Board may require. The Administrator shall perform all duties which may be required of him by the Board, and shall supervise all of the work and activities of the District, and have general direction of the affairs of the District, within such limitations as may be prescribed by the Board. He shall be a person qualified by training and experience for the position of Administrator.

The Board of Hospital Managers shall have the authority to employ such employees of every kind and character as may be deemed advisable for the efficient operation of the hospital or hospital system; provided that no contract or term of employment shall exceed the period of two (2) years.

The Board of Hospital Managers, with the approval of the Commissioners Court, shall be authorized to contract with any county for care and treatment of the county's sick, diseased and injured persons, and with the State and agencies of the Federal Government for the care and treatment of such persons for whom the State and such agencies of the Federal Government are responsible. Further, under the same conditions, the Board of Hospital Managers may enter into such contracts with the State and Federal Government as may be necessary to establish or continue a retirement program for the benefit of its employees.

The Board of Hospital Managers may in addition to retirement programs authorized by this Act establish such other retirement program for the benefit of its employees as it deems necessary and advisable.

A majority of the Board of Hospital Managers present shall constitute a quorum for the transaction of any business. From among its members, the Board shall choose a Chairman, who shall preside; or in his absence a Chairman pro tem shall preside; and the Administrator or any member of the Board may be appointed Secretary. The Board shall require the Secretary to keep suitable records of all proceedings of each meeting of the Board. Such records shall be read and signed after each meeting by the Chairman or the member presiding, and attested by the Secretary. The Board shall have a seal, on which shall be engraved the name of the Hospital District; and said seal shall be kept by the Secretary and used in authentication of all acts of the Board.

Purchases and expenditures

Sec. 7. The Board of Hospital Managers shall have the power to prescribe the method and manner of making purchases and expenditures by and for such Hospital District, and also shall be authorized to prescribe all accounting and control procedures. The Board shall cause an annual audit to be made of the books and records of the District as soon as practicable after the close of each fiscal year, such audit to cover such fiscal year, and to be made by an independent public accountant. The Hospital District shall pay all salaries and expenses necessarily incurred by the Board or any of its officers and agents in performing any duties which may be prescribed or required under this Act. It shall be the duty of any officer, employee or agent of the Board to perform and carry out any function or service prescribed by the Board hereunder.

Assistant to administrator

Sec. 8. In the event of incapacity, absence or inability of the Administrator to discharge any of the duties required of him, the Board may designate an assistant to the Administrator to discharge any duties or functions required of the Administrator. Such assistant or other persons shall give bond and have such limitations upon his authority as may be fixed by the order of the Board.

Fiscal year; annual budget

Sec. 9. Once each year, as soon as practicable after the close of the fiscal year, the Administrator of the Hospital District shall report to the Board of Hospital Managers and the Commissioners Court, a full sworn statement of all moneys and choses in action received by such Administrator and how disbursed or otherwise disposed of. Such report shall show in detail the operations of the District for the year. Under the direction of the Board of Hospital Managers, he shall prepare an annual budget which shall be approved by the Board of Hospital Managers.

Eminent domain

Sec. 10. The Hospital District organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said District, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by paragraph numbered 2 in Article 3268, Vernon's Civil Statutes, 1925, or to make the bond required therein. In condemnation proceedings being prosecuted by the said District, the District shall not be required to pay in advance or give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas or any appeal or writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

District depository

Sec. 11. Within thirty (30) days after the appointment of the Board of Hospital Managers of the District and each two (2) years thereafter the said Board shall select a depository for such District which shall be

one or the same depository theretofore selected by the County, such depository shall secure all funds of the District in the manner now provided for the security of county funds.

Inspection of district

Sec. 12. The Hospital District established or maintained under the provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health and of the Commissioners Court of the County, and resident officers shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers, and accounts pertaining to the Hospital District.

Legal counsel; salaries and expenses

Sec. 13. It shall be the duty of the County Attorney, District Attorney or Criminal District Attorney, as the case may be, charged with the duty of representing the County in civil matters, to represent the Hospital District in all legal matters; provided, however, that the Board of Hospital Managers shall be authorized at its discretion to employ additional legal counsel when the Board deems advisable.

The Hospital District shall contribute sufficient funds to the general fund of the County for the account of the budget of the County Attorney, District Attorney or Criminal District Attorney, as the case may be, to pay all additional salaries and expenses incurred by such officer in performing the duties required of him by the District.

District alone to incur indebtedness for hospital purposes

Sec. 14. Neither the County nor any city therein shall, after the Hospital District has been organized in pursuance of this Act, levy any tax for hospital purposes; and such Hospital District shall be deemed to have assumed full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said Hospital District from the date that taxes are collected for the Hospital District.

That portion of delinquent taxes owed the County on levies for present County hospital system shall continue to be paid to the Hospital District by the County as collected, and applied by the Hospital District to the purposes for which such taxes originally were levied.

Patients; inquiry as to ability to pay; liability of relative

Sec. 15. Whenever a patient has been admitted to the facilities of the Hospital District from the County, the Administrator shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the Hospital District for the care of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The Administrator shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the Administrator finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the Hospital District. Should there be a dispute as to the ability to pay, or doubt in the mind of the Administrator, the County Court shall hear and determine same, after

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calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the District Court by either party to the dispute.

Donations

Sec. 16. The Board of Hospital Managers of the Hospital District is authorized on behalf of said Hospital District to accept donations, gifts, and endowments for the Hospital District, to be held in trust and administered by the Board of Hospital Managers for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of the Hospital District.

Bonds eligible for investment and to secure deposits

Sec. 17. All bonds (including refunding bonds) issued by or assumed by the District authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, fiduciaries, building and loan associations, insurance companies, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Publication of notice

Sec. 18. The Legislature hereby finds affirmatively that thirty (30) days public notice was duly given in accordance with the provisions of Article IX, Section 9, of the Constitution of the State of Texas, of the intention to apply to this Legislature to enact a law providing for the creation, establishment, maintenance and operation of the Hospital District herein provided for.

Partial invalidity

Sec. 19. If any word, phrase, sentence, Section, portion or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act, and the application of such word, phrase, sentence, Section, portion or provision to other persons or circumstances, shall not be affected thereby. In the event any of the provisions hereof shall be in conflict with any other law of this State, the provisions of this Act shall prevail. Acts 1963, 58th Leg., p. 771, ch. 298.

Emergency. Effective May 30, 1963.

Art. 4494q—18. West Coke County Hospital District

Constitutional authority

Section 1. Pursuant to authority granted by the provisions of Section 9 of Article IX of the Constitution of the State of Texas, West Coke County Hospital District is hereby authorized to be created and as created shall have boundaries coextensive with the boundaries of Commissioners' Precincts 1 and 3 of Coke County, as constituted on January 1, 1963, and possess such rights, powers and duties as are hereinafter prescribed.

Purposes of district

Sec. 2. The District herein authorized to be created shall take over and there shall be transferred to it the title to all lands, buildings, improvements and equipment in anywise pertaining to hospitals owned by the County or by any city or town thereof, and thereafter it shall provide for

the establishment of a hospital system by the purchase, construction, acquisition, repair or renovation of buildings and equipment and the equipping of same and the administration thereof for hospital purposes. Such District shall assume full responsibility for providing medical and hospital care for its needy inhabitants and shall assume the outstanding indebtedness which shall have been incurred by Coke County and any city or town therein for hospital purposes prior to the creation of the District.

Creation of district

Sec. 3. The District shall not be created nor shall any tax therein be authorized unless and until such creation and such tax are approved by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election may be initiated by the Commissioners Court of Coke County upon its own motion and shall be called by said Commissioners Court upon presentation of a petition therefor signed by at least fifty (50) qualified property taxpaying electors of the District. Such election shall be held not less than twenty (20) nor more than thirty-five (35) days from the time such election is ordered by the Commissioners Court. The order calling the election shall specify the time and places of holding same, the form of ballot and the presiding judge for each voting place. Notice of election shall be given by publishing a substantial copy of the election order in a newspaper of general circulation in said District once a week for two (2) consecutive weeks, the first publication to appear at least fourteen (14) days prior to the date established for the election. The failure of any such election shall not operate to prohibit the calling and holding of subsequent elections for the same purpose. At said election there shall be submitted to the qualified property taxpaying electors of said District the proposition of whether or not West Coke County Hospital District shall be created with authority to levy annual taxes at a rate not to exceed twenty-five cents (25¢) on the One Hundred Dollar valuation of all taxable property within such District for the purpose of meeting the requirements of the District's bonds, the indebtedness assumed by it and its maintenance and operating expenses, and a majority of the qualified property taxpaying electors of the District voting at said election in favor of the proposition shall be sufficient for its adoption. The ballots shall have printed thereon the following:

"FOR the creation of West Coke County Hospital District, the levy of a tax not to exceed twenty-five cents (25¢) on the One Hundred Dollars (\$100) valuation and the assumption by such District of all outstanding bonds and indebtedness heretofore issued and incurred by any city or town in said District for hospital purposes"; and

"AGAINST the creation of West Coke County Hospital District, the levy of a tax not to exceed twenty-five cents (25¢) on the One Hundred Dollars (\$100) valuation and the assumption by such District of all outstanding bonds and indebtedness heretofore issued and incurred by any city or town in said District for hospital purposes."

District management

Sec. 4. Within ten (10) days after such election is held the Commissioners Court of said County shall convene and canvass the returns thereof and in the event such election results favorably to the proposition specified in Section 3 hereof, such District shall be governed by a Board of Directors to consist of five (5) members, who shall serve without pay. Each such Director must at the time of his election or appointment hereunder, be a resident of the District, own land subject to taxation therein and be more than twenty-one (21) years of age. Upon creation of the District as

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above provided the Commissioners Court shall appoint five (5) persons as Directors to serve until the first Saturday in April of the year succeeding the year of the District's creation, at which time five (5) Directors shall be elected. The three (3) Directors receiving the highest vote at such election shall serve for two (2) years and the other two (2) Directors shall serve for one (1) year. Thereafter all Directors shall serve for a period of two (2) years and until their successor has been duly elected or appointed and qualified. All qualified electors residing in said District shall be eligible to vote for Directors. Each member of the Board of Directors shall qualify for his office by executing the Constitutional oath of office to be filed in the office of the District. The Board of Directors shall organize by electing one of their number as President, one as Vice President and one as Secretary. Any three (3) members of the Board shall constitute a quorum and a concurrence of three (3) shall be sufficient in all matters pertaining to the business of the District. The Board shall require the keeping of a true account of all of their meetings and proceedings and shall preserve all contracts, records, notices, duplicate vouchers, duplicate receipts and all accounts and records of the District at its principal office where same shall be open to public inspection at all reasonable times. All vacancies in the office of Directors shall be filled for the unexpired term by appointment by the remainder of the Board, however in event the number of Directors shall be reduced at any one time to less than three (3) for any reason, the remaining Directors shall immediately call a special election to fill said vacancies and upon failure to do so such vacancies may be filled by appointment of the County Judge of Coke County. The regular election of Directors shall be held on the first Saturday in April in each year and notice of such election shall be published in a newspaper of general circulation in Coke County one time at least ten (10) days prior to the date of election. Any person desiring to have his name printed on the ballot as a candidate for Director shall file a petition signed by not less than twenty-five (25) qualified voters to such effect, at least twenty-five (25) days prior to the election.

Powers of directors

Sec. 5. The Board of Directors shall manage, control and administer the hospitals and hospital system of the District. The District through its Board of Directors shall have the power and authority to sue and be sued and to promulgate rules and regulations for the operation of the District. The Board of Directors shall appoint a qualified person to be known as the Administrator or Manager of the Hospital District and may in its discretion appoint an Assistant to the Administrator or Manager. Such Administrator or Manager, and Assistant Administrator or Assistant Manager, if any, shall serve at the will of the Board and shall receive such compensation as may be fixed by the Board. The Administrator or Manager shall, upon assuming his duties, execute a bond payable to the Hospital District in an amount to be set by the Board of Directors, in no event less than Ten Thousand Dollars (\$10,000), conditioned that he shall perform the duties required of him and containing such other conditions as the Board may require. The Administrator or Manager shall supervise all the work and activities of the District and shall have general direction of the affairs of the District subject to such limitations as may be prescribed by the Board. The Board of Directors shall have the authority to employ such doctors, technicians, nurses and other employees of every kind and character as may be deemed necessary for the efficient operation of the District or may provide that the Administrator or Manager shall have the authority to employ such persons. Such Board shall be authorized to contract with any county or incorporated municipality located outside

the District for the care and treatment of the sick, diseased or injured persons of any such county or municipality and shall have the authority to contract with the State of Texas and agencies of the Federal Government, for treatment of sick, diseased or injured persons for whom the State of Texas or the Federal Government are responsible. The Board of Directors is also authorized to enter into such contracts or agreements with the State of Texas or the Federal Government as may be required to establish or continue a retirement program for the benefit of the District's employees.

Fiscal year—audit—accounting

Sec. 6. The District shall be operated on a fiscal year commencing on October 1st of each year and ending on September 30th of the succeeding year and it shall cause an audit to be made of the financial condition of said District which shall at all times be open to inspection at the principal office of the District. In addition the Administrator or Manager shall prepare an annual budget for approval by the Board of Directors of said District. As soon as practical after the close of each fiscal year the Administrator or Manager shall prepare for the Board a full sworn statement of all moneys belonging to the District and a full account of the disbursements of same.

Transfer of hospital facilities and assumption of indebtedness and assets

Sec. 7. All lands, buildings and equipment that at the time of the creation of the District are owned by Coke County, Texas, or by any city or town therein and which were acquired by them for the purpose of providing hospital service or care for patients of such County or city, shall become the property of West Coke County Hospital District, and the Commissioners Court of Coke County and the governing body of any such city or town shall provide by order that all property so owned shall be conveyed to the West Coke County Hospital District in consideration of the Hospital District assuming all debts and obligations arising from the acquisition, construction and operation of such County and city or town hospital facilities. The Hospital District, through its Board of Directors, shall by resolution accept said properties and shall assume all the liabilities and obligations, including bonds and warrants incurred by Coke County or such city or town for such hospital purposes.

District shall have charge of all hospital funds

Sec. 8. Any funds remaining in the hands of the County or any city or town therein, as the proceeds of bonds assumed by the District, as herein provided, shall forthwith be transferred to and become the funds of the Hospital District and title thereto shall vest in such District. There shall also vest in said District and become the funds thereof the unspent portion of any other funds theretofore set up or appropriated by budget or otherwise by Coke County or any city or town thereof for the support and maintenance of hospital facilities for the year within which the Hospital District is created, thereby providing such Hospital District with funds with which to maintain and operate such facilities for the remainder of such year. Any uncollected or delinquent taxes levied for hospital purposes by Coke County or any city or town thereof, as collected, shall be paid to the District and applied by it to the purposes for which such taxes originally were levied. Any and all obligations under contracts legally incurred by Coke County or any city or town therein for the building or the support and maintenance of hospital facilities prior to the creation of said District but outstanding at the time of its creation shall be assumed and discharged by such District without prejudice to the

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rights of third parties. It is provided that the management and control of the property and affairs of any hospital system or systems owned and operated by Coke County or any city or town thereof shall continue in the existing Board of Managers until appointment and organization of the Board of Directors of the Hospital District, at which time the Board of Managers of the present hospital or hospital system shall turn over all records, property and affairs of said hospital system to the Board of Directors of the District and shall cease to exist as a Board of Managers of the existing hospital system.

The Commissioners Court of Coke County and the governing body of any city therein owning the hospital or hospital system, as the case may be, as soon as the Hospital District is created and authorized at the election hereinabove provided, and there have been appointed and qualified the Board of Hospital Directors above provided for, shall execute and deliver to the Hospital District, to wit: to its Board of Directors, an instrument in writing conveying to said Hospital District the hospital properties including management, buildings and equipment, and shall transfer to said Hospital District the funds hereinabove provided to be vested in the Hospital District. Such funds, in the hands of the Hospital District and its Board of Directors shall be used for all or any of the same purposes and for no other purposes than, the purposes for which the County or city transferring such funds could lawfully have used the same had they remained the property and funds of such County or city.

Authorization of bonds and levy of tax

Sec. 9. The Board of Directors of the Hospital District shall have the power and authority to issue and sell its bonds in the name and upon the faith and credit of such Hospital District for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospitals and the hospital system, as determined by the Board, and for any or all of such purposes. At the time of the issuance of any such bonds a tax shall be levied by the Board sufficient to create an interest and sinking fund and to pay the interest on and principal of said bonds as same mature, providing such tax together with any other taxes levied for said District shall not exceed twenty-five cents (25¢) on each One Hundred Dollar valuation of taxable property in any one year. Such bonds shall be issued under the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, but shall be executed in the name of the Hospital District and in its behalf by the President of the Board and attested by the Secretary and shall be subject to the same requirements in the matter of the approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts of the State of Texas as are by law provided for approval and registration of bonds issued by counties. After approval of any such bonds by the Attorney General and registration by the Comptroller, said bonds shall be incontestable. No bond shall be issued by such Hospital District, except refunding bonds, until authorized by a majority of the qualified property taxpaying electors of the District voting at an election called for such purpose. Such election shall be called by the Board of Directors and held in accordance with the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of Texas, as amended, and except as therein otherwise provided, shall be conducted in accordance with the General Laws of Texas pertaining to elections. The District shall make provisions for defraying the costs of all elections called and held under the provisions of this Act. The election order shall specify the date of the election, the amount of bonds to be authorized, the maximum maturity thereof, the maximum rate

of interest they are to bear, the place or places where the election shall be held and the presiding officer thereof.

The bonds of the District may be issued for the purpose of refunding and paying off any bond or other refundable indebtedness issued or assumed by the District and any bond issued by such District. Such refunding bonds may be sold and the proceeds thereof applied to the payment of any outstanding bonds or other refundable indebtedness, or may be exchanged in whole or in part for not less than a like principal amount of such outstanding bonds or refundable indebtedness; provided that if such refunding bonds are to be exchanged for a like amount of said outstanding bonds or other refundable indebtedness the interest thereon computed in accordance with recognized standard bond interest cost tables shall not exceed the average interest cost per annum so computed upon the bonds or other indebtedness to be refunded; and provided further, that if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding bonds or other refundable indebtedness, same shall be issued and payments made in the manner specified by Article 717k, Revised Civil Statutes of Texas, as amended.

If Coke County or any city or town therein have voted bonds to provide hospital facilities but such bonds have not been sold as of the date of creation of the District, the authority for the issuance and sale of such bonds shall thereupon be cancelled and they shall not be issued or sold after the creation of the District.

Bonds exempt from taxation

Sec. 10. In carrying out the purposes of this Act the District will be performing an essential public function and any bonds issued by it and their transfer and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the State or any municipality or political subdivision thereof.

Purchases and expenditures

Sec. 11. The Board of Directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures, by and for such Hospital District, and also shall be authorized to prescribe all accounting and control procedures and to make such rules and regulations as may be required to carry out the provisions of this Act.

District depository

Sec. 12. The Board of Directors of the District shall name one or more banks within the District to serve as depository for the funds of the District. All such funds shall, as derived and collected, be immediately deposited with such depository bank or banks except that sufficient funds shall be remitted to the bank or banks for the payment of principal of and interest on the outstanding bonds of the District or other obligations assumed by it and in time that such money may be received by said bank or banks of payment on or prior to the date of maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

Bonds eligible for investment and to secure deposits

Sec. 13. All bonds of the District shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust com-

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panies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

Eminent domain

Sec. 14. West Coke County Hospital District created hereunder shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the District, necessary or convenient to the powers, rights and privileges conferred by this Act, in the manner provided by General Law with respect to condemnation.

Levy, assessment and collection of taxes

Sec. 15. District taxes shall be assessed and collected in the same manner as provided by law with relation to county taxes. The Tax Assessor and/or Collector of Coke County shall be charged and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District Depository. For his services the County Tax Assessor-Collector shall be allowed such compensation as may be provided for by contract with the District but not to exceed the amount allowed for assessment and collection of County taxes. The bond of the County Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District, or, if in the judgment of the District Board of Directors, it is necessary that additional bond payable to the District may be required. In all matters pertaining to the assessment, collection and enforcement of taxes for the District, the County Tax Assessor-Collector shall be authorized to act in all respects according to the laws of the State of Texas relating to State and County Taxes.

Patients; inquiry as to the ability to pay; liability of relative

Sec. 16. Whenever a patient residing within the District has been admitted to the facilities thereof, the Administrator or Manager, shall cause inquiry to be made as to his circumstances and those of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are able to pay for his care and treatment, in whole or in part, an order shall be made directing such patient, or said relatives, to pay the Hospital District for the support of such patient a specified sum per week in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The Administrator or Manager shall have power and authority to collect such sums from the estate of the patient or his relatives legally liable for his support in the manner provided by law for the collection of expenses in the last illness of a deceased person. If the Administrator or Manager finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, same shall become a charge upon the Hospital District as to the amount of the inability to pay. Should there be any dispute as to the ability to pay or doubt in the

mind of the Administrator or Manager, the Board of Directors shall hear and determine same, after calling witnesses, and shall make such order or orders as may be proper.

Donations

Sec. 17. The Board of Directors of the Hospital District is authorized on behalf of such District to accept donations, gifts and endowments to be held in trust and administered by the Board of Directors for such purposes and under such directions, limitations, and provisions as may be prescribed in writing by the donor, not inconsistent with proper management and object of the Hospital District.

Annual budget

Sec. 18. The Board of Directors of said Hospital District shall cause to be prepared an annual budget based upon the fiscal year of the Hospital District in accordance with the provisions of Section 6 hereof and prior to September 1st of each year shall give notice of the public hearing on the proposed budget. Such notice shall be published in a newspaper of general circulation in the County at least ten (10) days prior to the date set for the hearing.

District alone to incur indebtedness for hospital purposes

Sec. 19. After creation of West Coke County Hospital District neither Coke County nor any other municipality or political subdivision shall thereafter issue bonds or other evidences of indebtedness or levy taxes for hospital purposes for medical treatment of indigent persons within said District and the said West Coke County Hospital District shall assume full responsibility for the operation of all hospital facilities for the furnishing of medical and hospital care of indigent persons.

State not to be obligated

Sec. 20. The support and maintenance of the West Coke County Hospital District shall never become a charge against or obligation of the State of Texas, nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such District.

Severability clause

Sec. 21. If any of the provisions 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.

Publication of notice

Sec. 22. Proof of publication of the notice required in the enactment hereof under the provisions of Section 9 of Article IX of the Texas Constitution has been made in the manner and form provided by law pertaining to the enactment of local and special laws and such notice is hereby found and declared proper and sufficient to satisfy such requirement. Acts 1963, 58th Leg., p. 825, ch. 315.

Emergency. Effective May 30, 1963.

Art. 4494q—19. Booker Hospital District

Constitutional authority; creation of district; boundaries

Section 1. Pursuant to the provisions of Section 9 of Article IX of the Constitution of the State of Texas, this Act shall be operative so as

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to authorize the creation, establishment, maintenance, and operation of the Booker Hospital District, the boundaries of which are described as follows, to wit:

BEGINNING at the Northwest corner of Lipscomb County where county boundary lines between Ochiltree County and Lipscomb County intersect the state boundary line between Texas and Oklahoma, and running due south along said county line to the Southwest corner of Lipscomb County;

THENCE East along the county boundary line between Lipscomb County and Hemphill County to its intersection with the eastern boundary line of Section 66 of Block 43 of the Houston and Texas Central R. R. Survey;

THENCE Northerly along the eastern boundaries of Sections 66, 111, 154, 199, 242, 287, 330, 375, 418, 463, 506, 551, 594, 639, 682, 727, 770, 815, 858, 903, 946, 991, 1034, 1079, 1122, and 1167 of Block 43 of the Houston and Texas Central R. R. Survey to the point of intersection of the eastern boundary of said Section 1167 with the south boundary of Section 155 of Block 10 of the Southern Pacific R. R. Survey;

THENCE West along the South boundary of Section 155 of Block 10 of the Southern Pacific R. R. Survey to its point of intersection with the east boundary of Section 154 of said survey;

THENCE North along the east boundary of said Section 154 and continuing north along the east boundaries of Sections 111, 66 and 23 of Block 10 of the Houston Tap and Brazoria R. R. Survey to the point of the intersection of that line with the Southern boundary of the W. P. Wiser Survey.

THENCE continuing north along the projection of the east boundary line of Section 23 of Block 10 of the Houston Tap and Brazoria R. R. Survey to the state boundary line.

THENCE West along the state boundary line between Texas and Oklahoma to the point of beginning.

Purpose of district

Sec. 2. The area described in Section 1 of this Act may be constituted a hospital district as hereinafter set out and may provide for establishment of a hospital system to furnish medical and hospital care to persons residing in said Hospital District; provided, however, that such Hospital District shall not be created unless and until an election for such purpose is held within the described area.

Election; ballots; board of directors

Sec. 3. (a) Upon the petition of fifty (50) qualified taxpaying voters residing within the described area, the Commissioners Court of Lipscomb County shall order an election to be held within the proposed District to approve the creation of the proposed District and to elect the first board of directors thereof. The Commissioners Court shall order such election within ten (10) days of the receipt of petitions and the election shall be held within said precincts within thirty (30) days after it is ordered.

(b) Upon and after the ordering of the election aforesaid any resident of the District twenty-one (21) years of age or over and who owns land in the District subject to taxation, and is otherwise qualified, may file application with the Commissioners Court of Lipscomb County, Texas, to have his or her name placed on the ballot for election to the board of di-

rectors of said District. Such applications shall be received by said Court up to ten (10) days preceding the date of the election.

(c) At the election there shall be submitted to the resident qualified property taxpaying voters within the boundaries of the area described in Section 1 of this Act who have duly rendered their property for taxation upon the tax rolls of the County, the proposition of whether or not the District shall be created within said boundaries; and a majority of the resident qualified property taxpaying voters voting at said election who have duly rendered their property for taxation upon the rolls of said precincts voting in favor of the proposition shall be necessary to create the District.

The ballots shall have printed thereon:

“FOR the creation of the Booker Hospital District and the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation.

“AGAINST the creation of the Booker Hospital District and the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation.”

There shall also be submitted to the resident qualified property taxpaying voters at such election a separate ballot containing the names of all of the qualified persons who shall file applications to have their names placed on the ballot for election to the board of directors. Each voter shall vote for nine (9) persons. The nine (9) persons receiving the highest number of votes shall constitute the first board of directors of said District. The three (3) receiving the highest number of votes shall serve for terms of six (6) years, the three (3) receiving the next highest number of votes shall serve for terms of four (4) years, and the three (3) receiving the next highest number of votes shall serve for terms of two (2) years.

Notice of such election stating the time of election, and the polling place and proposition and matters to be voted on shall be posted in a newspaper in general circulation in Lipscomb County, Texas, once a week for two (2) consecutive weeks, the first notice not being more than twenty (20) days prior to the date of election.

(d) The results of said election shall be filed in the county clerk's office of Lipscomb County, Texas, within ten (10) days thereafter. And if the majority of the resident property taxpaying voters voting at said election who have duly rendered their property for taxation upon the tax rolls of said District vote for the creation of the District, then within ten (10) days of the filing of said results the Commissioners Court shall order the District created and shall at such time declare those persons elected as directors to be the board of directors of the District and such board of directors shall manage and operate the business of the District and shall serve as directors until their respective successors are elected and qualified.

Officers; management and control of district

Sec. 4. The board of directors of the District shall elect a president and secretary from the members to serve until the next succeeding directors' election; the board of directors shall have the full management and control of all business of the District, including but not limited to the power and authority to negotiate and contract with any person or body, public or private, to purchase or lease land, to construct and equip a hospital system, and to operate and maintain the hospital, and to ne-

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gotiate and contract with other political subdivisions of the State or private individuals, associations or corporations for such purposes.

The board of directors shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the entire board of directors.

Levy and collection of tax

Sec. 5. Upon the creation of such Hospital District, the board of directors shall have the power and authority and it shall be their duty to levy on all property subject to Hospital District taxation for the benefit of the District at the same time taxes are levied for County purposes, using County values and County tax rolls, a tax of not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of all taxable property within the Hospital District, for the purpose of: (1) paying the interest on and creating a sinking fund for bonds which may have been assumed or which may be issued by the Hospital District for hospital purposes as herein provided; (2) providing for the operation and maintenance of the hospital or hospital system; and (3) for the purpose of making further improvements and additions to the hospital system, and for the acquisition of necessary sites therefor, by purchase, lease or condemnation.

Not later than October 1st of each year, the board of directors shall levy the tax on all taxable property within the District which is subject to taxation and shall immediately certify such tax rate to the tax assessor and collector of the county in which the District is located. The tax so levied shall be collected on all property subject to Hospital District taxation by the assessor and collector of taxes for the county on the county tax values, and in the same manner and under the same conditions as county taxes. The assessor and collector of taxes shall charge and deduct from payments to the Hospital District the fees for assessing and collecting the tax at the rate of not exceeding one per cent (1%) of the amounts collected as may be determined by the board of directors but in no event in excess of Five Thousand Dollars (\$5,000) for any one fiscal year. Such fees shall be deposited in the county's general fund, and shall be reported as fees of office of the tax assessor and collector. Interest and penalties on taxes paid to the Hospital District shall be the same as in the case of county taxes. Discounts shall be the same as for county taxes. The residue of tax collections, after deduction of discounts and fees for assessing and collecting, shall be deposited in the District depository; and such funds shall be withdrawn only as provided herein. All other income of the Hospital District shall be deposited in like manner with the District depository.

The board of directors shall have the authority to levy the tax aforesaid for the entire year in which the said Hospital District is established, for the purpose of securing funds to initiate the operation of the Hospital District, and to pay assumed bonds.

Authorization of bonds

Sec. 6. The board of directors shall have the power and authority to issue and sell as the obligations of such Hospital District, and in the name and upon the faith and credit of such Hospital District, bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any or all of such purposes; provided, that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as

same matures provided said tax together with any other taxes levied for said District shall not exceed seventy-five cents (75¢) in any one year. Such bonds shall be executed in the name of the Hospital District and on its behalf by the president of the board of directors, and countersigned by the secretary of the board of directors, and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas and the registration thereof by the Comptroller of Public Accounts of the State of Texas as are by law provided. Upon the approval of such bonds by the Attorney General of Texas the same shall be incontestable for any cause. No bonds shall be issued by such Hospital District (except refunding bonds) until authorized by a majority vote of the legally qualified property taxpaying voters, residing in such Hospital District, voting at an election called and held for such purpose. Such election may be called by the board of directors of its own motion, shall specify the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest rate (not to exceed six per cent (6%) per annum) and the maximum maturity date of such bonds (not to exceed forty (40) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such District once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least twenty (20) full days prior to the date set for the election. The costs of such election shall be paid by the Hospital District.

In the manner hereinabove provided, the bonds of such Hospital District may, without the necessity of any election therefor, be issued for the purpose of refunding and paying off any bonded indebtedness theretofore assumed by such Hospital District and any bonds therefore issued by such Hospital District; such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding bonds or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and interest matured thereon, but unpaid; provided the average interest cost per annum on the refunding bonds, computed in accordance with recognized standard bond interest cost tables, shall not exceed the average interest cost per annum so computed, upon the bonds to be discharged out of the proceeds of the refunding bonds, unless the total interest cost on the refunding bonds, computed to their respective maturity dates, is less than the total interest cost so computed on the bonds to be discharged out of such proceeds. In the foregoing computations, any premium or premiums required to be paid upon the bonds to be refunded as a condition to payment in advance of their stated maturity dates shall be taken into account as an addition to the net interest cost to the Hospital District of the refunding bonds.

Purchases and expenditures; books and records; rules and regulations

Sec. 7. The board of directors of such District shall have the power to prescribe the method and manner of making purchases and expenditures by and for such Hospital District, and also shall prescribe all accounting and control procedures; the method of purchasing necessary supplies, materials, and equipment, and shall have the power to adopt a seal for such District; and may employ a general manager, attorney, financial advisor, bookkeeper and architect.

All books, records, accounts, notices and minutes and all other matters of the District and the operation of its facilities shall, except as herein

provided, be maintained at the office of the District and there be open to public inspection at all reasonable hours.

The board of directors is specifically empowered to adopt rules and regulations governing the operation of such District and its facilities which rules and regulations shall supplement but shall not contravene any of the provisions of this Act. Such rules and regulations may, upon approval of the board of directors, be published in booklet or pamphlet form at the expense of the District and may be made available to any taxpayer upon request.

Fiscal year; annual budget

Sec. 8. The fiscal year of the Hospital District authorized to be established by the provisions hereof shall commence on October 1st of each year and end on the 30th day of September of the following year. The District directors shall cause an annual independent audit to be made of the books and records of the District, such audit to be made covering such fiscal year, and the same shall be filed with the Comptroller of Public Accounts of the State of Texas and at the office of the District not later than December 31st of each year.

The board of directors shall each year cause a budget to be prepared showing the proposed expenditures and disbursements and the estimated receipts and collections for the following fiscal year and shall hold a public hearing on the proposed budget after publication of a notice of hearing in a newspaper of general circulation in the County at least once not less than ten (10) days prior to the date set for the hearing. Any person who is a taxpayer of the District shall have the right to appear at the time and place designated in the notice and be heard with reference to any item shown in the proposed budget. The proposed budget shall also show the amount of taxes required to be levied and collected during such fiscal year and upon final approval of the budget, the board of directors shall levy such tax as may be required and certify the tax rate for such year to the county tax assessor and collector of each county included within the District as provided in Section 5 hereof, and it shall be the duty of the said tax assessor and collector to assess and collect such tax.

Eminent domain

Sec. 9. A Hospital District organized in pursuance of this Act shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind or character, real, personal or mixed, or any interest therein, including outright ownership of such property in fee simple absolute, within the boundaries of the said District, necessary or convenient to the exercise of the rights, powers, privileges and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation; provided that the said District shall not be required to make deposits in the registry of the trial court of the sum required by Article 3268 of the Revised Civil Statutes of Texas, 1925, as last amended by Section 2 of Chapter 37, Acts of the Forty-third Legislature, Second Called Session, 1934, or to make the bond required therein. In condemnation proceedings being prosecuted by the said District, the District shall not be required to pay in advance or to give bond or other security for costs in the trial court, nor to give any bond otherwise required for the issuance of a temporary restraining order or a temporary injunction relating to a condemnation proceeding, nor to give bond for costs or for supersedeas on any appeal or

writ of error proceeding to any Court of Civil Appeals, or to the Supreme Court.

District depository

Sec. 10. Within thirty (30) days after appointment and qualification of the board of directors of a Hospital District, the said directors shall by resolution designate a bank or banks located within the District as the District's depository or treasurer and all funds of the District shall be secured in the manner now provided for the security of county funds. The depository shall serve for a period of two (2) years and until a successor has been named.

Inspection of district

Sec. 11. All Hospital Districts established or maintained under provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State board of charities (or public welfare) that may hereafter be created, and resident officers shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the Hospital District.

District alone to incur indebtedness for hospital purposes

Sec. 12. No county or part thereof that has been constituted a part of this Hospital District, and no city therein, shall thereafter levy any tax for hospital purposes; and such Hospital District shall be deemed to have assumed full responsibility for the furnishing of medical and hospital care for persons residing in said Hospital District from the date that taxes are collected for the Hospital District.

Patients; inquiry as to ability to pay; liability of relative

Sec. 13. Whenever a patient has been admitted to the facilities of the Hospital District from the county in which the District is situated, the directors shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient, or said relatives, to pay to the treasurer of the Hospital District for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The District shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of a deceased person. If the agent designated by the District to handle such affairs finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the Hospital District. Should there be a dispute as to the ability to pay, or doubt in the mind of the person designated as aforesaid, the District's directors shall hear and determine same, after calling witnesses, and shall make such order as may be proper, from which appeal shall lie to the District Court by either party to the dispute.

Donations

Sec. 14. Said board of directors of the Hospital District is authorized on behalf of said Hospital District to accept donations, gifts, and endowments for the Hospital District to be held in trust and administered by the board of directors for such purposes and under such directions, lim-

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itations, and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of Hospital District.

Bonds eligible for investment and to secure deposits

Sec. 15. All bonds issued by the District authorized to be established and created under the provisions of this Act shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Suits

Sec. 16. All Hospital Districts created under the provisions of this Act shall be and are declared to be political subdivisions of the State of Texas, and as a governmental agency may sue and be sued in any and all courts of this State in the name of such District.

Violation of constitution; alternative procedures

Sec. 17. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provision of this Act should be invalid, such fact shall not affect the authorization for the creation of the District or the validity of any other provision of this Act, and the Legislature here declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof. Acts 1963, 58th Leg., p. 999, ch. 411.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act relating to the creation, administration, and financing of a hospital district

to be known as the Booker Hospital District, to be located in the western quarter of Lipscomb County, Texas; providing a severability clause; and declaring an emergency. Acts 1963, 58th Leg., p. 999, ch. 411.

Art. 4494q—20. Hospital District in Jefferson County

Establishing of district; powers of district

Section 1. Under and pursuant to the provisions of Section 9, of Article IX of the Constitution of the State of Texas, there is hereby created a Hospital District within Jefferson County, including all of Jefferson County except those portions comprising the Jefferson County Drainage District No. 7, the Port Arthur Independent School District, and the Sabine Pass Independent School District, as said boundaries existed on January 1, 1957, and are of record in the County Clerk's office of Jefferson County, Texas, and/or of record in the records of the Board of County School Trustees of Jefferson County, Texas, the boundaries of which Hospital District shall be set forth in a petition to the Commissioners Court of Jefferson County as hereinafter provided, with the power to issue bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same for hospital purposes

and further, the power to levy a tax for an amount not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) property valuation within such District for the purpose of meeting the requirements of the District bonds, the indebtedness assumed by it, and its maintenance and operating expenses, provided that such tax to meet the requirements of the bonds of said District shall not exceed twenty cents (20¢) in any one year on the One Hundred Dollar (\$100) valuation of the properties of said District.

Elections; ballots

Sec. 2. The Hospital District shall be created in the following manner: upon the motion of the Commissioners Court of Jefferson County, the Commissioners Court may order an election to be held within said Hospital District to approve the creation of such District, or upon the petition of not less than one hundred (100) resident qualified property taxpaying voters within the boundaries of said District to the Commissioners Court of Jefferson County, and upon receiving such petition bearing such signatures, the said Commissioners Court shall hold a hearing thereon as provided for in Section 4 hereof, and shall upon finding said petition to contain not less than one hundred (100) signatures of qualified taxpaying voters residing in said District, order an election to be held within said District to approve the creation of such District. Said Commissioners Court shall order such election within ten (10) days after said motion finding said petition to contain the necessary signatures is made and carried by the Commissioners Court of Jefferson County, and the election shall be held in said District within thirty (30) days after it is ordered by the Commissioners Court of Jefferson County. At said election there shall be submitted to the qualified property taxpaying voters of such District, the proposition of whether or not a Public Hospital District shall be created within said portion of Jefferson County, and a majority vote of the qualified property taxpaying voters participating in said election in favor of the proposition shall be necessary. The ballots shall have printed thereon:

“FOR the creation of a Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of the properties of said District for all purposes in any one year, and providing that the portion of such tax to meet the requirements of the bonds of said District shall not exceed twenty cents (20¢) in any one year on the One Hundred Dollar (\$100) valuation of the properties of said District”; and

“AGAINST the creation of a Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of the properties of said District for all purposes in any one year, and providing that the portion of such tax to meet the requirements of the bonds of said District shall not exceed twenty cents (20¢) in any one year on the One Hundred Dollar (\$100) valuation of the properties of said District.”

If such county, or any city, located wholly or in part within the said District, either, or all of them, have any outstanding indebtedness therefor incurred for hospital purposes which by the provisions of Section 9 of Article IX of the Constitution of the State of Texas are required to be assumed by the Hospital District, then the ballots of such election shall instead of the foregoing have printed thereon:

“FOR the creation of a Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of the properties of said District for all purposes in any

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one year, and providing that the portion of said tax to meet the requirements of the bonds of said District shall not exceed twenty cents (20¢) in any one year on the One Hundred Dollar (\$100) valuation of the properties of said District; and providing for the assumption by such District of all outstanding indebtedness incurred by Cities, Towns and Counties for hospital purposes prior to the creation of this District, if said Cities, Towns and Counties are located wholly within the boundaries of said District, and a pro rata portion of such indebtedness based upon the then last approved tax assessment rolls of the included Cities, Towns and Counties, if less than all the territory thereof is included within the said District boundaries"; and

"AGAINST the creation of a Hospital District; providing for the levy of a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of the properties of said District for all purposes in any one year, and providing that the portion of said tax to meet the requirements of the bonds of said District shall not exceed twenty cents (20¢) in any one year on the One Hundred Dollar (\$100) valuation of the properties of said District; and providing for the assumption by such District of all outstanding indebtedness incurred by Cities, Towns and Counties for hospital purposes prior to the creation of this District, if said Cities, Towns and Counties are located wholly within the boundaries of said District, and a pro rata portion of such indebtedness based upon the then last approved tax assessment rolls of the included Cities, Towns and Counties, if less than all the territory thereof is included within the said District boundaries."

Cash deposit with petition for election for the creation of hospital district; disposition

Sec. 3. The petition to the Commissioners Court for the calling of an election to create the Hospital District herein provided for, shall be accompanied by Two Hundred Dollars (\$200) in cash, which shall be deposited with the Clerk of the said Court, and be used in defraying the costs of said election and any portion thereof not so used shall be refunded to petitioners, their agent or attorney.

Hearing on petition; time for hearing; notice

Sec. 4. At the same session when said petition is presented, the Court shall set said petition down for hearing at some regular or special session called for the purpose, not less than thirty (30), nor more than sixty (60) days from the presentation of said petition, and shall order the Clerk to give notice of the date and place of said hearing by posting a copy of said petition and other order of the Court thereon for twenty (20) days prior to the hearing in five (5) public places in said County, one at the courthouse door, and four (4) within the limits of the District.

Board of district hospital trustees; election, powers and duties

Sec. 5. Such Public Hospital District shall be governed, administered and controlled by and under the direction of a Board of nine (9) Public District Hospital Trustees, six (6) of whom shall be elected at large from the Public Hospital District by qualified voters of said District, and two (2) of whom shall be Doctors of Medicine and shall be appointed by the Beaumont Academy of Medicine, or in the event the said Beaumont Academy of Medicine should cease to exist then said two (2) Trustees shall be appointed by the Jefferson County Medical Society, and in the event there is no such Jefferson County Medical Society, then said two (2) Trustees shall be appointed by the County Commissioners Court of

Jefferson County, and one (1) of whom shall be a minister, rabbi or priest and shall be appointed by the other eight (8) Trustees, said appointees to serve for two (2) years and said three (3) appointed Trustees to be subject to the approval of the elected members of said Board of Trustees. All of said Trustees must have been residents of the area comprising said Hospital District for at least six (6) months and must be twenty-one (21) years of age or older. Whenever an election is ordered for the creation of such District at the same election at which there shall be determined the creation of such District, there shall also be submitted and voted upon by the qualified voters of such District, the question of who shall be the Public District Hospital Trustees in the event such District is created. The six (6) candidates for Public District Hospital Trustees receiving the highest number of votes at such election shall be declared the elected Trustees of such Public Hospital District; such Trustees so elected and the three (3) appointed Trustees when duly qualified hereunder shall be the legal and rightful Hospital District Trustees for such District within the full meaning and purpose of this law. The three (3) Trustees receiving the highest number of votes shall serve until the first Saturday of April of the second year following their election, when three (3) Trustees shall be elected for two (2) year terms and the other three (3) Trustees shall serve until the first Saturday in April of the year following their election at which time three (3) Trustees shall be elected for two (2) year terms, and thereafter there shall be an annual election on the first Saturday in April of three (3) Trustees in continuing sequence. Any candidate desiring to be voted upon as such first Trustee shall present a petition to the Commissioners Court no later than three (3) days before the order authorizing the election is issued by the Court, and shall be accompanied by a petition of not less than one hundred (100) of the qualified voters of such proposed District, requesting that his name be placed on the ticket as candidate for such Trustee. Said Board of Trustees shall adopt such rules, regulations and bylaws as they may deem proper, and they shall have the exclusive right to manage and govern said Hospital District. The Hospital District created under the provisions of this Act under the name of North Jefferson County Hospital District shall be, and is declared to be a political subdivision of the State of Texas, and as a governmental agency may sue and be sued in any and all courts in this State in the name of such District, and may receive bequests and donations or other moneys and funds coming legally into its hands and may perform other acts for the promotion of health in said District.

All vacancies in the office of elected Trustees shall be filled by appointment by the Board of Trustees for the unexpired term. All vacancies in the office of appointive Trustee shall be filled by appointment of the body which originally appointed such Trustee or Trustees if such body is still in existence, and if not, then by the applicable body set forth in Section 5 hereof, and such appointment shall be subject to approval by the elected Trustees.

In the event the number of elected Trustees cumulatively, shall be reduced to less than four (4), then the remaining Trustee or Trustees shall call a special election to fill said vacancies, and if they shall fail to do so within fifteen (15) days after said vacancies occur, the County Judge of Jefferson County, Texas, upon petition of any voter or creditor thereof shall order the holding of such election, fixing the date thereof and order the publication of notice thereof by any county sheriff, and name the officers to hold such election. In any such election held by order of the County Judge, the returns of such election shall be made to and filed in the office of the Clerk of the Court, and said Judge shall declare the results

thereof. The officers elected shall furnish bond and qualify in the manner provided herein with reference to Trustees first elected for said District upon its organization.

Oath of trustees

Sec. 6. Before entering upon his duties each Trustee shall take and subscribe to an oath faithfully to discharge the duties of his office without favor or partiality and to render a true account of his activities to the Board of Trustees of said District whenever requested to do so. Such oath shall be filed with the Secretary of said District and preserved as a part of the District records.

Bond of trustees

Sec. 7. Each Trustee shall give a good and sufficient bond of Five Thousand Dollars (\$5,000) payable to the Hospital District for the use and benefit of the District, conditioned upon the faithful performance of his duties.

Compensation of trustees; expenses; organization; quorum; seal

Sec. 8. The Trustees shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties hereunder. The Trustees shall organize by electing one of their number chairman, and one secretary, and one treasurer, and such other officers as they may deem fit. Five (5) Trustees shall constitute a quorum which shall be sufficient in all matters pertaining to the business of said District. All proceedings of the Board of Trustees shall be by motion or resolution recorded in a book or books kept for such purpose which shall be public records. The Board of Trustees shall adopt an official seal.

Administrator and other officers

Sec. 9. The Board of Trustees of such Hospital District shall appoint an Administrator and such other officers, including Medical Director, as they may deem necessary and fix the salary or other compensation to be received by each of them. All such appointments shall be for an indefinite time and may be removable at the will of the Board of Trustees. The Administrator shall have control of administrative functions of said Hospital District, including the hiring and discharging of employees under his supervision. He shall be responsible to the Board of Trustees for the official administration of all affairs of the Hospital. In case of the absence or temporary disability of the Administrator, a competent person shall be appointed by the Board of Trustees. The Administrator shall be entitled to attend all meetings of the Board of Trustees and its committees and to take part in the discussion of any matters pertaining to the duties of his department, but shall have no vote. Such Hospital District Administrator shall have power, and it shall be his duty;

(1) To carry out the orders of the Board of Trustees and to see that all of the laws of the State pertaining to the matters within the functions of his department are duly enforced;

(2) To keep the Board of Trustees fully advised as to the financial condition and needs of the District. To prepare each year an estimate for the ensuing fiscal year of the probable expenses of his Department and to recommend to the Board of Trustees what development work should be undertaken and what extensions and additions, if any, should be made during the ensuing fiscal year, with an estimate of the cost of such development work, extensions and additions. To certify to the Board of Trustees all of the bills, allowances and payrolls, including claims due contractors of public works. To recommend to the Board of Trustees,

salaries of the employees of his office and a scale of salaries or wages to be paid for the different classes of services required by the District.

Medical Director

Sec. 10. The Medical Director shall be in charge of all matters of a medical nature in said Hospital District subject to such rules and regulations as the Board of Trustees may adopt, and shall be entitled to attend all meetings of said Board of Trustees and take part in all discussions of said Board, but he shall have no vote.

Bond issues; approval and registration; election

Sec. 11. The Board of Trustees shall have the power and authority to issue and sell as the obligations of the Hospital District, and in the name and upon the faith and credit of the Hospital District, bonds for the purchase, including lands, construction, acquisition, including lands, repair or renovation of buildings and improvements and equipping the same for hospital purposes and for any and all such purposes, provided that a sufficient tax shall be levied to create an interest and sinking fund to pay the interest and principal as same matures, provided said tax, shall not exceed twenty cents (20¢) in any one year on the One Hundred Dollar (\$100) valuation of the properties of said District, and that said tax together with any other taxes levied for said District, shall not exceed seventy-five cents (75¢) in any one year on the One Hundred Dollar (\$100) valuation of the properties of said District. Such bonds shall be executed in the name of the Hospital District, and on its behalf signed by the Chairman of the Board of Trustees, and countersigned by the Secretary of the Board of Trustees and shall be subject to the same requirements in the matter of approval thereof by the Attorney General of the State of Texas, and the registration thereof by the Comptroller of Public Accounts of the State of Texas, as are now by law provided for such approval and registration of bonds of such county. Upon the approval of such bonds by the Attorney General of Texas, the same shall be incontestable for any cause. No bonds shall be issued by the Hospital District, except refunding bonds, until authorized by a majority vote of the legally qualified property taxpaying voters, residing in the Hospital District, voting at an election called and held for such purpose. Such election may be called by the Board of Trustees of its own motion, and shall specify the place or places where the election shall be held, the presiding officers thereof, the purpose for which the bonds are to be issued, the amount thereof, maximum interest rate (not to exceed six per cent (6%) per annum) and the maximum maturity date of such bonds (not to exceed thirty (30) years from their date of issuance). Notice of election shall be given by publishing a substantial copy of the order calling the election in a newspaper of general circulation in such District once a week for two (2) consecutive weeks prior to the date of election, the date of the first publication being at least fourteen (14) days prior to the date set for the election. The cost of such election shall be paid by the Hospital District.

Additional bond issues; election

Sec. 12. If the proceeds of the original bond issue shall be insufficient to complete the purchase, including lands, construction, acquisition, including lands, repair or renovation of buildings and improvements and equipping the same for hospital purposes for such District, or if the Trustees determine from time to time to provide for the additional purchase, including lands, acquisition, including lands, construction, repairs or renovation of buildings and improvements and equipping same for

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hospital purposes for said District, they shall determine the necessity for an additional bond issue stating the amount required, the purpose of same, the rate of interest of said bonds, and the time for which they are to run. Said Board of Trustees shall thereupon order an election on the issuance of said bonds to be held within such district at an early time. The outstanding bonds and additional bonds so ordered shall not exceed an amount of six per cent (6%) of the assessed value of the real property in such District as shown by the latest annual assessment thereof made for the State and County taxation.

Changes in proposed district hospital; procedure; notice

Sec. 13. After the issuance of bonds is authorized, the Trustees may make changes in said proposed District Hospital, additions, or betterments thereto, extensions thereof, or equipment therefor, which will be of advantage to the District Hospital, which changes will not increase the cost of such proposed project beyond the amount of bonds authorized. Such changes may be made by the Trustees by entering on the minutes a notation of such changes. Notice of such change or changes shall be given by publication of notation with the book and page number of the minutes for two (2) successive weeks in some newspaper of general circulation published in the English language within Jefferson County.

Record book for bonds; inspection

Sec. 14. Before issuing any bonds hereunder, the Trustees shall provide a well-bound book in which a record shall be kept by the Secretary of said District of all bonds issued with their number, amount, rate of interest, and date of issue, when due, where payable, and the amount received for the same and the annual rate of assessment made each year to pay the interest on said bonds and provide a sinking fund for their payment, and upon the payment of any bond an entry thereof shall be made in said book. Said book shall at all times be open to inspection of all parties interested in said District either as taxpayers or bondholders.

Bonds; issuance; procedure; denomination; interest rate; maturity

Sec. 15. All bonds issued hereunder shall be issued in the name of the District, signed by the Chairman of the Board of Trustees and attested by the Secretary with the seal of said District affixed thereto. Such bonds shall be issued in the denominations of not less than One Hundred Dollars (\$100) nor more than One Hundred Thousand Dollars (\$100,000) each and shall bear interest not exceeding six per cent (6%) per annum, payable annually or semi-annually, such bonds by their terms provide the time, place, manner and conditions of their payment and the rate of interest thereon as may be determined by the said Board of Trustees. No bond shall be made payable more than thirty (30) years after the date thereof.

Attorney general; certification of validity of bonds

Sec. 16. Before any bonds are offered for sale the District shall forward to the Attorney General of Texas a copy of the bonds to be issued, certified copy of the order of the District levying the tax to pay the interest and providing a sinking fund and a statement of the total bonded indebtedness of such District as such, including the series of bonds proposed and the assessed value of the property for the purpose of taxation as shown by the latest official assessment of the County with such other information that the Attorney General may require. Such officer shall carefully examine said bonds, and if he shall find that they are issued in conformity with the Constitution and laws and that they are valid and binding obligations upon such District, he shall so officially certify.

Registration of bonds by comptroller; prima-facie evidence of validity

Sec. 17. When said bonds have been so approved they shall be registered by the Comptroller in a book to be kept for that purpose and the certificate of their approval shall be preserved of record for use in the event of litigation. Thereafter said bonds shall be held prima-facie valid and binding obligations in every action, suit, or proceeding in which their validity is brought in question. In every suit to enforce the collection of said bonds, the certificate of the Attorney General or a duly certified copy thereof shall be admitted and received in evidence as prima-facie proof of the validity of such bond, together with the coupons attached thereto.

Sale of bonds; disposition of proceeds of district fund

Sec. 18. When the bonds have been registered, the Chairman of the said Board of Trustees shall under the direction of the said Board of Trustees advertise and sell such bonds on the best terms and for the best price possible, but for not less than the par value and accrued interest. All money received from said sale shall be turned over as received by the Chairman of such Board of Trustees to the Treasurer of said Board of Trustees and shall be by him placed to the credit of the District in the proper funds of said District in accordance with the purpose or purposes for which said bonds were voted. Said fund shall be disbursed by said Secretary only by vouchers drawn and signed by the Chairman of the Board of Trustees or such other officer of the District as may be selected and designated by the Board of Trustees. The Treasurer shall maintain in the name of the said Hospital District such funds as may be received by the Board of Trustees and into which shall be placed such money as the Board of Trustees may by its resolution direct. All such Hospital District funds shall be deposited with the District Depositories under the same resolutions, contracts, and securities as are provided by Statute for County Depositories and all interest collected on said Hospital funds shall belong to such Hospital District.

Tax levy to pay bonds and interest; sinking fund

Sec. 19. When bonds have been voted, the Board of Trustees of said Hospital District shall annually levy and cause to be assessed and collected by the County Tax Assessor-Collector and Commissioners Court of Jefferson County, Texas, taxes upon all property within the District whether real, personal or otherwise and sufficient in amount to pay the interest on such bonds as it falls due, and to redeem such bonds at maturity. Such taxes when so collected will be placed in the interest and sinking fund.

Annual report by trustees

Sec. 20. The Trustees shall annually on or before the 1st day of June prepare and file with the Secretary of said Board of Trustees a full detailed report of the condition of the District Hospital with an estimate of the probable cost of maintenance, operation and needed repairs during the current year of the organization of said Hospital District and for each ensuing year, together with an inventory of all funds, effects, property and accounts belonging to such District, and a list of all lawful demands, debts and obligations against the District. Such report shall be verified by the Trustees and carefully investigated and considered before any levy of taxes is made under the succeeding Section.

Assessment and collection of taxes; maximum rate; disposition

Sec. 21. Following the investigation and consideration of said above reports, the Board of Trustees of said Hospital District shall cause to be assessed and collected by the County Tax Assessor-Collector and the County Commissioners Court of Jefferson County, Texas, taxes for the current year of its organization and for each year thereafter, upon all property in the District, whether real, personal or otherwise, sufficient to maintain, keep and repair, to preserve and operate the said Hospital District and to pay all legal, just and lawful debts, damages and obligations against such District during the current year of its organization and each succeeding year thereafter. Such taxes when so collected shall be placed in the operation and maintenance fund.

Sale of bonds not required for purpose for which voted

Sec. 22. If any bonds remain which are not required for the purpose for which they were voted, then with the consent of the Board of Trustees duly made of public record, and upon a majority vote of the qualified tax-paying voters of said District, such bonds or a part thereof may be sold and the proceeds of the sale thereof may be placed in the appropriate fund as directed by the Board of Trustees and used for the purpose stated in the Section next proceeding.

Tax assessor; powers and duties; board of equalization

Sec. 23. In the assessment and collection of the taxes authorized hereunder and in all matters pertaining thereto or connected therewith, the Board of Trustees of said Hospital District shall determine the amount of taxes required for its various purposes and the tax rate required to raise such amount of tax revenues and shall assess such taxes and such tax rate. The valuations on the properties in said Hospital District for taxation purposes for said Hospital District shall be the same valuations as determined by the Jefferson County officials for State and County tax purposes. Said taxes shall then be assessed and collected by the County Tax Assessor and Collector who in such event shall have the same powers and shall be governed by the same rules, regulations and proceedings as provided for the assessment and collection of State and County taxes and shall be entitled to such fees as may be provided by law for such services and if there is no such fee provided by law, then said fee shall be determined by agreement between the said Tax Assessor-Collector and the Board of Trustees of said Hospital District. The Commissioners Court of Jefferson County shall constitute a Board of Equalization for such Hospital District, and shall be entitled to such fee, if any, as is provided by law therefor, and if no fee for said services is provided by law, then such fee may be negotiated by said Commissioners Court and said Board of Trustees of said Hospital District, and all laws governing Boards of Equalization for State and County taxing purposes shall govern such Board of Equalization.

Lien and due date of taxes; penalty for nonpayment

Sec. 24. The taxes authorized hereunder shall be a lien upon all property assessed therefor. Said taxes shall become due and payable at the same time as State and County taxes. Upon the failure to pay such taxes when due the penalty provided by law for failure to pay State and County taxes at maturity shall in every respect apply to taxes hereunder.

Additional books provided; assessment; compensation of assessor

Sec. 25. The Board of Trustees shall provide all necessary additional books for the use of the Administrator, Secretary and Treasurer of such District and charge the cost of the same to the said District. The District Tax Assessor and Collector shall assess all property within the District and list the same for taxation in the books or rolls furnished him by said Board of Trustees for said purpose and return said books or rolls when the State and County rolls are returned for correction and approval and shall furnish a true and correct copy thereof to the Board of Trustees of said Hospital District. If said Board of Trustees find them correct, it shall approve the same and direct the Tax Assessor-Collector of said District to levy and collect said taxes on all of the taxable properties within said Hospital District.

Duties of district tax collector; additional bond

Sec. 26. The Tax Assessor-Collector shall be charged by the Board of Trustees with the assessment rolls of the District. The Board of Trustees may require said Tax Assessor-Collector to give a bond or security in such sum as they deem proper and safe to secure the collection of said taxes.

Certified list of tax delinquent property; tax sale

Sec. 27. The collector shall make a certified list of all delinquent property upon which the Hospital District tax has not been paid and return a true and correct copy thereof to the Board of Trustees of said District. The District Tax Assessor-Collector shall proceed to have the same collected by the sale of such property in the same manner provided by law for the sale of property for the collection of State and County Taxes. The Trustees of said District may purchase any property so sold for the benefit of the District.

The General Laws relating to the assessment, collection and equalization of taxes insofar as applicable shall apply to the assessment, collection and equalization of the Hospital District taxes.

District treasurer's duties

Sec. 28. The Treasurer of said District shall open an account for the District and keep an accurate account of all moneys received by him belonging to such District and of all amounts paid out by him. He shall pay out no money except upon a voucher signed by any two (2) of the following: The Chairman, Secretary, Treasurer, or Administrator. The Treasurer shall carefully preserve on file all orders for payment of money, and as often as required by the Trustees he shall render a correct account to them of all matters pertaining to the financial condition of the District.

Compensation of treasurer

Sec. 29. The Treasurer shall not be allowed any pay for his services as such, but shall be reimbursed for any expenses he incurs in the performance of his duties as Treasurer.

Payment of obligations incurred in establishing district; sources

Sec. 30. After the establishment of the Hospital District all legal and just expenses, debts and obligations other than bonds and interest thereon arising and created after the filing of the original petition, and necessarily incurred in the creation, establishment and operation and maintenance of such Hospital District shall be paid out of the construction and maintenance fund or the operation and maintenance fund of such District, which

funds shall consist of all money, effects, property and proceeds received by such District from all sources, except that portion of the tax collection which shall be necessary to pay the interest on the bonded indebtedness as it falls due and the payment of bonds at maturity. Said tax collections shall be placed in and paid out of the interest and sinking funds of such District for such purposes, and such funds may be invested for the benefit of the District in such bonds and securities as the Attorney General may approve. Such funds shall be held for the respective purpose for which they were created and if money is improperly paid out of either, the Board of Trustees of said District shall cause the Treasurer to make the necessary transfer of such amount in the District account to restore the funds so improperly used.

Powers of district

Sec. 31. The said Hospital District organized as herein provided shall have the following power:

(a) To construct, condemn and purchase, purchase and acquire, lease, add to, maintain, operate, develop, and regulate, sell and convey, all lands, property, property rights, equipment, hospital facilities and systems for the maintenance of hospitals, buildings, structures and any and all other facilities, and to exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and damaging of the same, or property of any kind appurtenant thereto, and such right of eminent domain shall be exercised and instituted pursuant to a resolution of the Board of Trustees and consummated in the same manner and by the same procedure as is or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the State of Texas in the acquisition of property rights. It is provided, however, that said Hospital District shall not have the right of eminent domain and the power of condemnation against any hospital, clinic or sanatorium operated as a charitable nonprofit establishment or against a hospital, clinic or sanatorium operated by a religious group or organization or against any privately owned or operated hospital or clinic, corporate or otherwise in said District;

(b) To lease existing hospitals and equipment and/or other property used in connection therewith and to pay such rental therefor as the Trustee shall deem proper; to provide hospital service for residents of said District in hospitals located outside the boundaries of said District by contract or in any other manner said Trustees may deem expedient or necessary under the existing conditions; and said Hospital District shall have the power to contract with other communities, corporations or individuals for the services provided by said Hospital District on the cost basis per patient set forth below, and they may further receive in said Hospital and furnish proper and adequate services for all persons not residents of said District at such reasonable and fair compensation as may be considered proper by the Board of Trustees of said Hospital District which compensation shall in no event be less than this Hospital District's cost per patient per day plus the pro rata share per patient per day for retiring the outstanding bonds of this Hospital District; provided that it must at all times make adequate provisions for the needs of the District, and the residents of said District shall have prior right to the available facilities of said Hospital, at rates set by the District Trustees. By the term "resident" as used herein shall mean a minimum of six (6) months residence in this Hospital District;

(c) For the purpose aforesaid it shall be lawful for any district so organized to take, condemn and purchase, lease or acquire, any and all

property, and property rights, for any of the purposes aforesaid, and any and all other facilities necessary or convenient, and in connection with the construction, maintenance, and operation of any such hospital, except as herein duly excepted in paragraph (a) of this Section;

(d) To contract indebtedness or borrow money for corporate purposes on the credit of the corporation or the revenues of the hospitals of said District and to issue bonds as herein provided;

(e) To enter into any contract with the United States Government or any state, municipality or other hospital district, or any department of those governing bodies for carrying out any of the powers authorized by this Act;

(f) To sue and be sued in any court of competent jurisdiction; provided that said Hospital District shall not be liable for negligence for any act of any officer, agent or employee of said District; and provided that all suits against said Hospital District shall be brought in the county in which said Hospital District is located;

(g) To make contracts, employ administrator, attorneys and other technical or professional assistants and all other employees; to print and publish information or literature and to do all other things necessary to carry out the provisions of this Act;

(h) To set up whatever schools and educational training programs as are deemed advisable.

Contracts exceeding two thousand dollars (\$2,000); competitive bidding; bond of contractor

Sec. 32. Any contract of any nature whatsoever entered into by the Board of Trustees on behalf of said Hospital District in excess of Two Thousand Dollars (\$2,000) shall be let to the lowest bidder after advertising the same in one or more newspapers of general circulation in this State for four (4) consecutive weeks, and by posting notices thereof for at least twenty-five (25) days in four (4) public places in the County, one at the courthouse door and at least two (2) within the District. Any person, firm or corporation desiring to bid on any such contract, shall, upon application to the Trustees, be furnished with a copy of the plans and specifications or other data necessary to make the said bid. All bids shall be in writing and sealed and delivered to the Chairman of the Board of Trustees, with a certified check for at least five per cent (5%) of the total amount bid, which shall be forfeited to the District in case the bidder refuses to enter into a proper contract if his bid is accepted. Any bid may be rejected if deemed too high. The contractor shall give surety bond to the District in accordance with the provisions of Article 5160, Revised Civil Statutes of 1925, and amendments thereto.

Refunding and paying off of bonded indebtedness

Sec. 33. In the manner hereinabove provided, the bonds of such Hospital District may, without the necessity of any election therefor, be issued for the purpose of refunding and paying off any bonded indebtedness theretofore assumed by such Hospital District, and any bonds theretofore issued by such Hospital District, such refunding bonds may be sold and the proceeds thereof applied to the payment of any such outstanding bonds or may be exchanged in whole or in part for not less than a like amount of said outstanding bonds and interest matured thereon, but unpaid; provided the average interest cost per annum on the refunding bonds, computed in accordance with recognized standard bond interest cost tables, shall not

exceed the average interest cost per annum so computed upon the bonds to be discharged out of the proceeds of the refunding bonds, unless the total interest cost on the refunding bonds, computed to their respective maturity dates, is less than the total interest cost so computed on the bonds so to be discharged out of such proceeds. In the foregoing computations any premium or premiums required to be paid upon the bonds to be refunded as a condition to payment in advance of their stated maturity date shall be taken into account as an addition to the net interest cost to the Hospital District of the refunding bonds. If the City and the County or either of them has voted bonds to provide hospital facilities, but such bonds have not been sold at the date of the creation of the Hospital District, the authority for such bonds shall be cancelled, and they shall not be sold.

County or city property or funds; transfer to district

Sec. 34. Any lands, buildings or equipment that may be jointly or separately owned by such County and City and be located within the boundaries of said Hospital District and by which medical services or hospital care, including geriatric care, are furnished to the indigent or needy persons of the City and County shall become the property of the Hospital District; and title thereto shall vest in the Hospital District; and any funds of the City and County, or either, which are the proceeds of any bonds assumed by the Hospital District as herein provided shall become the funds of the Hospital District, and title thereto shall vest in the Hospital District; and there shall vest in the Hospital District, and become the funds of the Hospital District the unspent portion of any funds theretofore set up or appropriated by budget or otherwise by the City or the County or either of them for the support and maintenance of the Hospital facilities for the year within which the Hospital District comes into existence, thereby providing such Hospital District with funds with which to maintain and operate such facilities for the remainder of such year. All obligations legally incurred by the City or County or either of them, for the building of, or the support and maintenance of, hospital facilities, prior to the creation of the said District, but outstanding at the time of the creation of said District shall be assumed and discharged by it without prejudice to the rights of third parties, provided that the management and control of the property and the affairs of the present Hospital system shall continue in the governing body of such system until election and organization of the Board of Trustees of the Hospital District, at which time the governing body of the present Hospital system shall turn over all records, property and affairs of said Hospital systems to the Board of Trustees of the Hospital District and shall cease to exist as a Hospital system governing body.

Any outstanding bonded indebtedness incurred by the City or County, either or both of them, in the acquisition of such lands, buildings and equipment, or in the construction and equipping of such Hospital facilities, together with any other outstanding bonds issued by either of them for Hospital purposes, shall be assumed by the Hospital District and become the obligation of the Hospital District; and the City or County, either or both of them, that issued such bonds, shall be, by the Hospital District released of any further liability for the payment therefor or providing interest and sinking fund requirements thereon; provided that nothing herein contained shall limit or affect any of the rights of any of the holders of such bonds against the City or the County as the case may be, in the event of default in the payment of the principal or interest on any of such bonds in accordance with their respective terms.

The Commissioners Court and the City where a hospital or hospital system is jointly operated or the Commissioners Court where the County owns the hospital or hospital system, or the City where the City owns the hospital or hospital system, as the case may be, as soon as the Hospital District is created and authorized at the election hereinabove provided, and a Board of Trustees have been elected and qualified, shall execute and deliver to the Hospital District, to wit: To its said Board of Trustees, an instrument in writing conveying to the said Hospital District the hospital property, including lands, buildings, and equipment; and shall transfer to said Hospital District the funds hereinabove provided to become vested in said Hospital District upon being furnished a certificate by the Chairman of the Board of the fact that a depository for the District funds has been selected and is qualified; which funds shall in the hands of the Hospital District and of its Board of Hospital Trustees, be used for all or any of the same purposes as and for no other purposes than, the purposes for which the County or City transferring such funds could lawfully have used the same had they remained the property and funds of such County or City.

In the event less than all the territory of said Cities, Towns and Counties is included within the said Hospital District boundaries, then said Hospital District in acquiring the lands, buildings and/or equipment that may be jointly or separately owned by such County, Town or City and be located within the boundaries of said Hospital District and by which medical services or hospital care including geriatric care are furnished to the indigent or needy persons of the City, Town or County, shall negotiate with the governing body of such City, Town or County for the acquisition of said lands, buildings and equipment. In the event such governing body of such City, Town or County and the Trustees of said Hospital District fail to reach an agreement within thirty (30) days after the election of the Hospital District Trustees, who are to be elected as herein provided, then the Hospital District shall be entitled to acquire said lands, buildings and equipment by paying to such City, Town or County the market value thereof, or if said properties have no market value, then the true value thereof, less a pro rata portion of said value based upon the then last approved tax assessment rolls of the said Cities, Towns and Counties, as the said value of all the taxable properties of said Hospital District is to the total taxable value of all the taxable properties of said City, Town or County and such payments to said Cities, Towns and Counties by said Hospital District may be made by said Hospital District allowing such Cities, Towns and Counties credit for such amount of future hospital care by the said Hospital District for the indigent of said Cities, Towns and Counties who do not reside within the boundaries of the Hospital District.

In the assuming of the indebtednesses of bonds of said Cities, Towns and Counties by the Hospital District where less than all of the territory of such Cities, Towns and Counties are within the Hospital District, the Hospital District shall, based upon the then last approved tax assessment rolls of said Cities, Towns and Counties, assume the pro rata portion of said indebtednesses and bonds of said Cities, Towns and Counties as the value of all the taxable properties of said Hospital District is to the total taxable value of all the taxable properties of said City, Town or County.

In receiving the funds of such Cities, Towns and Counties by the Hospital District which are the remainder of bond issues of such Cities, Towns and Counties and in receiving the unspent portion of any funds theretofore set up or appropriated by budget or otherwise by such Cities, Towns and Counties for the support and maintenance of the hospital facilities

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for the year within which the Hospital District comes into existence, where less than all the territory of such Cities, Towns and Counties are within the Hospital District, the Hospital District shall, based upon the then last approved tax assessment rolls of said Cities, Towns and Counties, be entitled to the pro rata portion of said funds, of said cities, Towns and Counties as the value of all taxable properties of said Hospital District is to the total taxable value of all the taxable properties of said City, Town or County.

Inspection of district

Sec. 35. The Hospital District established or maintained under the provisions of this Act shall be subject to inspection by any duly authorized representative of the State Board of Health or any State Board of Charities (or Public Welfare) now existing or as may hereafter be created, and resident officers shall admit such representatives into all Hospital District facilities and give them access on demand to all records, reports, books, papers and accounts pertaining to the Hospital District.

Medical and hospital care assumed by the district; delinquent taxes owed to the cities and counties

Sec. 36. No county, any portion of which has been constituted a Hospital District, and no City, any portion of which is within the boundaries of said Hospital District shall thereafter levy any tax for hospital purposes on any properties within said Hospital District and such Hospital District shall be deemed to have assumed full responsibility for the furnishing of medical and hospital care for the needy and indigent persons residing in said Hospital District from the date that taxes are collected for the Hospital District.

That portion of the delinquent taxes owed by Cities and Counties on levies for present city and county Hospital systems under Acts, Forty-eighth Legislature, 1943, Chapter 383, page 691, shall continue to be paid to the Hospital District by the City and County as collected and in the same proportion that a portion of a City and/or a portion of a county is included in said Hospital District, and applied by the Hospital District to the purposes for which such taxes originally were levied.

Patients; inquiry as to ability to pay; liability of relatives

Sec. 37. Whenever a patient has been admitted to the facilities of the Hospital District from the area of the said Hospital District, the Administrator shall cause inquiry to be made as to his circumstances, and of the relatives of such patient legally liable for his support. If he finds that such patient or said relatives are liable to pay for his care and treatment in whole or in part, an order shall be made directing such patient or such relative, to pay to the Treasurer of the Hospital District for the support of such patient a specified sum per week, in proportion to the financial ability, but such sum shall not exceed the actual per capita cost of maintenance. The Administrator shall have power and authority to collect such sum from the estate of the patient, or his relatives legally liable for his support, in the manner provided by law for the collection of expenses of the last illness of the deceased person. If the Administrator finds that such patient or said relatives are not able to pay, either in whole or in part, for his care and treatment in such hospital, the same shall become a charge upon the Hospital District. Should there be a dispute as to the ability to pay, or doubt in the mind of the Administrator, the Board of Trustees of said District shall hear and determine the same, after calling

witnesses, and shall make such order as may be proper, from which appeal shall lie to the District Court by either party to the dispute.

Donations, gifts and endowments for district

Sec. 38. Said Board of Trustees of the Hospital District is authorized on behalf of said Hospital District to accept donations, gifts and endowments for the Hospital District, to be held in Trust and administered by the Board of Trustees for such purposes and under such directions, limitations and provisions as may be prescribed in writing by donor, not inconsistent with proper management and objects of this Hospital District.

Annexation of additional territory to hospital district

Sec. 39. The Board of Trustees of the Hospital District may by order duly adopted annex any adjacent properties to said Hospital District, provided that an election is called by the Board of Trustees of the Hospital District, such election to be confined to the area to be annexed to the Hospital District, and upon the approval of a majority of the qualified property taxpaying voters of said area proposed to be annexed the said property shall become a part and portion of the said Hospital District and shall be liable for its pro rata share of the indebtedness of said Hospital District and to the levying of taxes upon the properties in said District for the payment of said obligations and debts of said Hospital District.

De-annexation of properties constituting a part of said hospital district

Sec. 40. The Board of Trustees of the Hospital District may de-annex any portion of the said Hospital District provided that a majority of the qualified property taxpaying voters within said area proposed to be de-annexed shall at an election called by the Board of Trustees of said Hospital District vote for such de-annexation and provided further that such property so de-annexed shall continue to be proportionately responsible for all of the outstanding bonds and debts of said Hospital District as of the date of said de-annexation.

Severability clause and saving clause

Sec. 41. Nothing in this Act shall be construed to violate any provision of the Federal and State Constitution and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any Court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure, conformable with such Constitution. If any provisions of this Act should be invalid, such fact shall not affect the authorization for the creation of the District or the validity of any other provisions of this Act, and the Legislature here declares that it would have created this Hospital District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provisions or provision hereof. Acts 1963, 58th Leg., p. 1199, ch. 479.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 4494q—21. Brooks County Hospital District

Establishment of district; boundaries; purposes; election; ballots

Section 1. Brooks County is hereby given authority to create, establish, maintain and operate a hospital district to be known as Brooks County Hospital District, with boundaries coextensive with the boundaries of Brooks County, Texas, and said District, if established, shall be for the

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purpose of operating the hospital facilities now known as the Brooks County Hospital, and such additional facilities as may be provided in the future, and to receive into the hospital system, under the general direction of the Board of Managers of said District, and to furnish medical and hospital care to any persons found to be suffering from any illness, disease or injury, and to furnish medical and hospital care to indigent persons residing in said Hospital District, provided that the District shall not be established unless and until an election is duly held in Brooks County for such purpose upon the following conditions:

Said election may be initiated by the Commissioners Court of Brooks County upon its own motion or upon a petition of fifty (50) resident qualified property taxpaying electors of said County, to be held not less than thirty (30) days from the time such election is ordered by the Commissioners Court.

At said election there shall be submitted to the qualified property taxpaying electors of Brooks County the proposition for the creation of a hospital district and for the assumption by the District of the outstanding indebtedness of such County for hospital purposes, and a majority of the qualified property taxpaying electors participating in said election voting in favor of the proposition shall be necessary before such District is established. The ballots at such election shall have printed thereon the following:

"FOR the creation of a Brooks County Hospital District and authorizing the levy of an annual tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation of taxable property in the District and for the assumption by the Hospital District of outstanding bonds theretofore issued by the County of Brooks, for hospital purposes.

"AGAINST the creation of a Brooks County Hospital District and authorizing the levy of an annual tax not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation of taxable property in the District and for the assumption by the Hospital District of outstanding bonds theretofore issued by the County of Brooks, for hospital purposes."

Levy and collection of taxes

Sec. 2. Upon establishment of said District at such election, the District shall thereafter have the power to levy an annual tax, at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100) valuation of all taxable property within such District, for the purpose of meeting the requirements of such bonds so assumed, all future bonds of the District, all other indebtedness assumed by it, its maintenance and operating expenses and for all other purposes of the District. The District shall have the power to issue bonds for the purchase, construction, acquisition, repair or renovation of its buildings and improvements and equipping the same, for hospital purposes: provided, however, that any bonds issued by such District must be authorized by a majority vote of the qualified property taxpaying voters residing in such District as in the case of bonds issued by other political subdivisions of this State. Such District shall use the same valuation and the same tax roll as Brooks County, Texas, and the taxes levied by such District shall be assessed and collected by the County of Brooks by its county tax assessor and collector who shall assess and collect all taxes of the District in the manner in which it assesses and collects the taxes of Brooks County and turn over said taxes to the Brooks County Treasurer who shall deposit same to the credit of the District at its designated depository. All taxes which have not been paid on the last day of January shall become delinquent on the first day of Febru-

ary each year and same shall be and remain a lien upon the property for which same were assessed although the owner be unknown or same be listed in the name of a person not the actual owner thereof or though the ownership be changed. All such property may be sold under a judgment of a court for all taxes, interest, penalty and costs assessed against same at any time after such taxes become delinquent. The District shall have authority to file suits for the collection of taxes against any and all property assessed for taxes and if the owner be unknown such suit may be filed against an unknown owner and the property sold under the judgment of the court. Taxes are not barred by any law of limitation and no law providing for a period of limitation as to debts or actions shall apply to such taxes.

Conveyance of property to district; assumption of outstanding indebtedness

Sec. 3. The Commissioners Court of Brooks County shall execute and deliver to the District a written instrument conveying to the District title to all land, buildings, improvements and equipment, located within the District, and which was theretofore a part of the County hospital system. The District shall be fully responsible for providing medical and hospital care for the needy inhabitants of Brooks County. The District shall also be fully responsible for all of the outstanding indebtedness incurred by Brooks County for hospital purposes prior to the creation of the District.

District alone to incur indebtedness for hospital purposes

Sec. 4. After establishment of such District, no other municipality or political subdivision in Brooks County shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the District.

Board of managers

Sec. 5. The Commissioners Court of Brooks County shall appoint a Board of Managers, consisting of seven (7) members, none of whom shall be members of said Court, and all of whom shall be resident qualified property taxpaying citizens of said County, who shall serve for a term of two (2) years, and whose duties shall be to manage, control, and administer the hospital or hospital system of the District in accordance with the laws of the State. The Board of Managers shall have the power and authority to promulgate rules and regulations for the operation of the hospital or hospital system in the District and shall employ the Administrator, such doctors, technicians, nurses and employees as may be deemed advisable for the efficient operation of the hospital or hospital system. In making the first appointments to the Board of Managers, three (3) members shall be appointed for one (1) year and four (4) members for two (2) years so that thereafter three (3) or four (4) members of said Board shall be appointed by the Commissioners Court every year. Appointments to fill vacancies to the Board of Managers occurring by death, resignation or other cause shall be made by the Commissioners Court for the unexpired term. Failure of any member of the Board of Managers to attend three (3) consecutive meetings of the Board shall cause a vacancy in his office unless said absence is excused by formal action of the Board of Managers. The members of the Board of Managers shall receive no compensation for their services but shall be allowed their actual and necessary traveling and other expenses within this State, in connection with their duties. Any member of the Board of Managers after being cited may at any time for cause be removed from office by the Commissioners Court. The funds of the District shall be disbursed upon orders of the Board of Managers.

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The Board of Managers shall keep in a book provided for that purpose a proper record of its proceedings. Such book, all bills and accounts, including salaries and wages, all records of disbursements and all other records pertaining to the finances of said District shall be open at all reasonable times to the inspection of the general public. All meetings of the Board of Managers shall be open at all times to the general public. An annual financial report of said District shall be prepared by the Board of Managers or under its direction and a true copy thereof shall be filed with the County Clerk of said County.

Suits

Sec. 6. Said District when created shall be a governmental agency, body politic and corporate and through its Board of Managers sue and be sued in any and all courts of this State in the name of such District and all courts of the State shall take judicial notice of the establishment of the District and said District shall contract and be contracted with in the name of such District. Said District shall have such powers of government and with authority to exercise such rights, privileges and functions concerning the purposes for which it was created, as may be conferred by this Act or any other law in this State to the benefit of which it may be entitled. No enumeration of specific powers herein shall be held a limitation upon the general powers conferred by the Act, unless distinctly so expressed.

Bonds of county tax assessor and collector and treasurer

Sec. 7. The Tax Assessor and Collector of Brooks County and the Brooks County Treasurer shall each and both be required to furnish a bond to and for the benefit of the District, with bond premium, if any, expense to be paid by the District, the amount of said bond to be set by the Board of Managers of said District, upon form of bond furnished by such officials to the county or State, said bond to be approved by said Board of Managers. Acts 1963, 58th Leg., p. 1358, ch. 516.

Emergency. Effective June 11, 1963.

Art. 4494r. County Hospital Authority Act

Creation of authorities

Section 1. County Hospital Authorities without taxing power may be created as hereinafter provided. This law shall be known as the "County Hospital Authority Act."

Definitions

Sec. 2. As used in this law, "County" means any county in the State of Texas; "Governing Body" means the Commissioners Court of a county; "Authority" means a County Hospital Authority created under this Act; "Board" or "Board of Directors" means the board of directors of the Authority; "Bond Resolution" means the resolution authorizing the issuance of revenue bonds; "Trust Indenture" means the mortgage, deed of trust or other instrument pledging revenues of, or creating a mortgage lien on properties, or both, to secure the revenue bonds issued by the Authority; "Trustee" means the trustee under the Trust Indenture.

Order; territory of authority; body politic and corporate; powers

Sec. 3. When the Governing Body of a county shall find that it is to the best interest of the County and its inhabitants to create a County Hospital Authority, it shall pass an order creating the Authority and designat-

ing the name by which it shall be known. The Authority shall comprise only the territory included within the boundaries of such County and shall be a body politic and corporate and a political subdivision of the State. It shall have the power of perpetual succession, have a seal, may sue and be sued and may make, amend and repeal its bylaws.

Board of directors; appointment; terms; expenses

Sec. 4. (a) The Authority shall be governed by a Board of Directors consisting of not less than seven (7) nor more than eleven (11) members to be determined at the time of creating the Authority. Except as hereinafter in this Section provided, the first Directors shall be appointed by the Governing Body of the County, and they shall serve until their successors are appointed as hereinafter provided. When the Authority issues its revenue bonds the resolution authorizing the issuance of the bonds or the Trust Indenture securing them may prescribe the method of selecting and the term of office of a majority of the members of the Board. The remaining members of the Board shall be appointed by the Governing Body of the County. The Trust Indenture may also provide that, in event of default as defined in the Trust Indenture, the Trustee may appoint all of the Directors, in which event the terms of the Directors then in office shall automatically terminate. Unless and until provision is made in the Bond Resolution or Indenture in connection with the issuance of bonds for the appointment by other means of part of the Directors, all of the Directors shall be appointed by the Governing Body of the County for terms not to exceed three (3) years, but the terms of Directors appointed prior to the issuance of the first issue of revenue bonds shall be subject to the exercise of the provision herein made for appointment of a majority of the members of the Board in connection with the issuance of the bonds. No officer or employee of any such County shall be eligible for appointment as a Director. Directors shall not receive compensation for services but shall be entitled to reimbursement of their expenses incurred in performing such service.

(b) In the event the Authority purchases from a nonprofit corporation a hospital then in existence or in process of construction, the first members of the Board of Directors and their successors shall be determined as provided in the contract of purchase.

Officers; quorum; manager or executive director of hospital

Sec. 5. The Board of Directors shall elect from among their members a president and vice president, and shall elect a secretary and a treasurer who may or may not be Directors, and may elect such other officers as may be authorized by Authority's bylaws. The offices of secretary and treasurer may be combined. The president shall have the same right to vote on all matters as other members of the Board. A majority of the members of the Board shall constitute a quorum and when a quorum is present action may be taken by a majority vote of Directors present. The Board shall employ a manager or executive director of the Hospital and such other employees, experts and agents as it may see fit, but it may delegate to the manager the power to employ and discharge employees. The Board may employ legal counsel.

Construction, operation and equipment of hospitals

Sec. 6. The Authority shall have the power to construct, enlarge, furnish and equip hospitals, purchase existing hospitals, furnishings and equipment for its hospitals, and to operate and maintain hospitals. A hospital must be located within the County creating the Authority.

Revenue bonds

Sec. 7. The Authority may issue revenue bonds to provide funds for any of its purposes. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation of the hospital or hospitals and any other revenues resulting from the ownership of the hospital properties. The bonds may be additionally secured by a mortgage or deed of trust on real property of Authority or by a chattel mortgage on its personal property, or by both.

Content of bonds; maturity

Sec. 8. The bonds shall be authorized by resolution adopted by a majority vote of a quorum of the Board of Directors, and shall be signed by the president or vice president and countersigned by the secretary, or either or both of their facsimile signatures may be printed thereon. The seal of the Authority shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the Authority, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

Bond resolution; publication; referendum petition

Sec. 9. (a) Before authorizing the issuance of bonds, other than re-funding bonds, the Board of Directors shall cause a notice to be issued stating that it intends to adopt a resolution (herein called "Bond Resolution") authorizing the issuance of the bonds, the maximum amount thereof, and the maximum maturity thereof. The notice shall be published once each week for two (2) consecutive weeks in a newspaper or newspapers having general circulation in the Authority, the first such publication shall be at least fourteen (14) days prior to the day set for adopting the Bond Resolution.

(b) If, prior to the day set for the adoption of the Bond Resolution, there is presented to the secretary or president of the Board of Directors a petition signed by not less than ten per cent (10%) of the qualified voters residing within the boundaries of the County comprising the Authority, who own taxable property in the Authority and who have duly rendered the same for taxation to the County in which such property is located or situated, requesting an election on the proposition for the issuance of the bonds, the bonds shall not be issued unless an election is held and a majority vote is in favor of the bonds. Such election shall be called and held in accordance with the procedure prescribed in Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended, with the Board of Directors, president and secretary performing the functions therein assigned to the governing body of the County, the County Judge and County Clerk respectively. If no such petition is filed the bonds may be issued without an election. It is provided, however, that the Board of Directors may call such election on its own motion without the filing of the referendum petition.

Junior lien bonds; parity bonds

Sec. 10. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the Bond Resolution or Trust In-

denture. Parity bonds may be issued under conditions specified in the Bond Resolution or Trust Indenture.

Payment of interest

Sec. 11. Money for the payment of not more than two (2) years' interest on the bonds and an amount estimated by the Board to be required for operating expenses during the first year of operation may be set aside for those purposes out of the proceeds from the sale of the bonds.

Refunding outstanding bonds

Sec. 12. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied in accordance with the procedure prescribed in Chapter 503, Acts of the Fifty-fourth Legislature.

Approval of bonds by attorney general; registration; incontestability; contents

Sec. 13. Bonds issued under this Act and the record relating to their issuance shall be submitted to the Attorney General of Texas and if he finds that they have been issued in accordance with this law and constitute valid and binding obligations of the Authority and are secured as recited therein he shall approve them, and they shall be registered by Comptroller of Public Accounts of the State of Texas who shall certify such registration thereon. Thereafter they shall be incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation."

Operation of hospital; rates for services

Sec. 14. The Hospital shall be operated without the intervention of private profit for the use and benefit of the public. But it shall be the duty of the Board of Directors to charge sufficient rates for services rendered by the Hospital and to utilize other sources of its revenues that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation and upkeep of the Hospital, to pay the interest on the bonds as it becomes due, to create a sinking fund to pay the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the Bond Resolution or Trust Indenture. The Bond Resolution or Trust Indenture may prescribe systems, methods, routines and procedures under or in accordance with which the Hospital shall be operated.

Depository

Sec. 15. The Authority may select a depository or depositories according to the procedures provided by law for selection of county depositories or it may award its depository contract to the same depository or depositories selected by the County and on the same terms.

Tax exemption

Sec. 16. Recognizing the fact that the property owned by Authority will be held for public purposes only and will be devoted exclusively to the use and benefit of the public, it shall be exempt from taxation of every character.

Eminent domain

Sec. 17. For the purpose of carrying out any power conferred by this Act, Authority shall have the right to acquire the fee simple title to land

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and other property and easements by condemnation in the manner provided by Title 52, Revised Civil Statutes as amended, relating to eminent domain. Authority is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52. The amount of and character or interest in land, other property and easements thus to be acquired shall be determined by the Board of Directors.

Investment of funds

Sec. 18. The law as to the security for and the investment of funds, applicable to Counties, shall control, insofar as applicable the investment of funds belonging to Authority. The Bond Resolution or the Indenture or both may further restrict the making of such investments. In addition to other powers Authority shall have the right to invest the proceeds of its bonds, until such money is needed, in the direct obligations of or obligations unconditionally guaranteed by the United States Government, to the extent authorized in the Bond Resolution or Indenture or in both.

Donations, gifts and endowments

Sec. 19. The Board of Directors is authorized to accept donations, gifts and endowments to be held and administered as may be required by the respective donors, to the extent that such requirements would not contravene law.

Legal and authorized investments

Sec. 20. All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Acts 1963, 58th Leg., p. 324, ch. 122.

Effective 90 days after May 24, 1963, date of adjournment. County bonds, see art. 701 et seq.

CHAPTER SIX—MEDICINE

Medical examiners, see Vernon's Ann. C.C.P. 989a.

Art. 4495. Medical board

Providing state department of health with data on condition and treatment of persons, see art. 4447d.

Reporting treatment of gunshot wound indicating violence, see Vernon's Ann. P.C. art. 732c.

Art. 4501. [5739] Examination

Medical examiners in counties of more than 500,000 population not having repu-

table medical school, see Vernon's Ann. C.C.P. art. 989a, § 1.

Art. 4502. [5740] Disposition of fees; compensation of members of board

The fund realized from all fees payable under this Act shall first be applied to the payment of all necessary expenses of the Board, and the remainder is to be applied by order of the Board to compensate members of the Board, said compensation to each member of the Board to be Thirty Dollars (\$30) per day for any number of days which any such member may be active on business of the Board, whether such business consists of reg-

ular meetings, committee work for the Board, grading papers, or any other function which is a legitimate and proper function held to be necessary by the Texas State Board of Medical Examiners; provided, however, that no member of said Board shall be paid a per diem in excess of fifty (50) days of any calendar year. Said daily compensation shall be exclusive of the necessary costs of travel of any Board member, or any other expenses necessary to the performance of his duty. Provided also, that the premium on any bond required by the Board of any officer or employee of the Board shall be paid out of said fund, as well as the necessary expenses of any employee incurred in the performance of his duties. As amended Acts 1963, 58th Leg., p. 956, ch. 381, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 4503. Details of examinations

Medical examiners in counties of more than 500,000 population not having reputable medical school, see Vernon's Ann.C.C.P. art. 989a, § 1.

Art. 4510. [5745] Who regarded as practicing medicine

Providing state department of health with data on condition and treatment of persons, see art. 4447d.

CHAPTER SEVEN—NURSES**Art. 4528b. Tuberculosis nurses**

Providing state department of health with data on condition and treatment of persons, see art. 4447d.

Art. 4528c. Licensed vocational nurses**Term of Office, Organization, Meetings of Board****Sec. 4.**

(d) Regular meetings of the Board shall be held at least twice a year, one of which shall be designated as an Annual Meeting for election of officers and the reading of auditors' reports, and at both regular meetings licenses shall be issued to those qualified. At least twice each year the Board shall hold examinations for qualified applicants for licensure. Not less than sixty (60) days notice of the holding of examinations shall be given by publication in at least three (3) daily newspapers of general circulation, to be selected by the Board; special meetings shall be held upon request of four (4) members of the Board or upon the call of the President; six (6) members of the Board shall constitute a quorum for the transaction of business, and should a quorum not be present on the day appointed for any meeting, those persons present may adjourn from day to day until a quorum shall be present, providing that such period shall not be longer than three (3) successive days; each member of said Board shall be paid Twenty Dollars (\$20) per day for each day he attends meetings of the Board, not to exceed five (5) days for each meeting, and the time going to and returning from meetings shall be included in computing said time; in addition thereto, each member shall receive expenses incurred while actually engaged in the performance of the duties of the Board. As amended Acts 1963, 58th Leg., p. 955, ch. 380, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER EIGHT—PHARMACY

Art. 4542a. State Board of Pharmacy to regulate practice of Pharmacy; exclusion of Communists, etc.

Permits for stores or factories

Sec. 17.

(d)

(4) That any owner or employee of an owner of a licensed retail pharmacy, drugstore, dispensary, or apothecary shop, pursuant to Subsection (a), has violated any provision of this Act. Added Acts 1963, 58th Leg., p. 958, ch. 383, § 1.

(5) That the applicant has sold counterfeit drugs and medicines, or has sold without a prescription drugs and medicines bearing the legend: 'Caution: Federal Law prohibits dispensing without prescription,' to persons other than those listed in Section 4, (b), 1 through 7 inclusive of the Texas Dangerous Drug Law, Acts 1959, Fifty-sixth Legislature, page 923, Chapter 425, and codified as Article 726d, Vernon's Texas Penal Code. Added Acts 1963, 58th Leg., p. 958, ch. 383, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

(f) The permit provided for in Subsection (a) of this Section shall be issued annually by the Board upon receipt of the proper application accompanied by a fee not to exceed Ten Dollars (\$10). As amended Acts 1963, 58th Leg., p. 958, ch. 383, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER NINE—DENTISTRY

Art. 4551b. Exceptions

Incorporation of dental health service corporations, see Texas Non-Profit Corporation Act, art. 2.01, Vol. 3A, pocket part.

CHAPTER ELEVEN—CHIROPODY

Art. 4570. Application for License

All applicants for license to practice chiropody in this State, not otherwise licensed under the provisions of law, shall present satisfactory evidence to the State Board of Chiropody Examiners that such applicants have attained the age of twenty-one (21) years, are of good moral character and are free of all contagious and communicable diseases, and furnish a certificate of health to that effect, and are citizens of the United States of America, and who are graduates of a recognized high school with credits sufficient and acceptable to enter the state university of the state in which the high school graduation was attained, or The University of Texas, without condition toward a Bachelor's Degree, and the applicant shall have completed at least thirty (30) semester hours of college courses acceptable at the time same was completed, for credit on a Bachelor's Degree at The University of Texas, and shall present satisfactory evidence of graduation from a bona fide reputable school of chiropody or podiatry

in the form of a diploma from such school. Such chiropody or podiatry schools may be considered reputable, within the meaning of this Act, whose course of instruction shall embrace at least four (4) terms of at least eight (8) months each, and which meets the approval of the State Board of Chiropody Examiners. All educational attainments or credits for evaluation within the meaning of this Act, or applicable under this law, shall have been completed within the geographical boundaries of the United States, and no educational credits attained in any foreign country that are not acceptable to The University of Texas toward a Bachelor's Degree, shall be acceptable to the State Board of Chiropody Examiners. Candidates for a license to practice chiropody in Texas shall make an application, in writing, on a form prescribed by the Board, and all credits and information verified by affidavit contained in the form. As amended Acts 1963, 58th Leg., p. 40, ch. 27, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Section 2 of Acts 1963, 58th Leg., p. 40, ch. 27, provided: "Nothing in the Act in any way shall invalidate or affect or be construed to invalidate or affect any valid

license duly issued by the State Board of Chiropody Examiners and in effect on the effective date of this Act, or the lawful renewal or reinstatement of any license issued by said Board."

CHAPTER TWELVE—EMBALMING

Art. 4582b. Funeral directing and embalming

Definitions

Section 1. A. A "funeral director," as that term is used herein, is a person engaged in or conducting, or holding himself out as being engaged in:

1. Preparing, other than by embalming, for the burial or disposition of dead human bodies; and
2. Maintaining or operating a funeral establishment for the preparation and disposition, or for the care of dead human bodies.

B. The term "directing a funeral," or "funeral directing" as herein used, shall mean the directing or personal supervision by a licensed funeral director from the time of the first call until interment or entombment services are completed, or until the body is delivered into the hands of the persons in charge of a crematorium, or until the body is delivered to another funeral director or to a public carrier.

C. The term "first call" shall mean the beginning of the relationship and duty of the funeral director to take charge of a dead human body and have same prepared by embalming, cremation, or otherwise, for burial or disposition, provided all laws pertaining to public health in this state are complied with. "First call" does not include calls made by ambulance, when the person dispatching the ambulance does not know whether a dead human body is to be picked up. A dead human body shall be picked up on first call only under the direction or personal supervision of a licensed funeral director. A dead human body may be transferred from one funeral home to another funeral home and to and from a morgue where an autopsy is to be performed without a licensed funeral director personally making the transfer.

D. The term "embalmer" as herein used is a person who disinfects or preserves a dead human body, entire or in part by the use of chemical substances, fluids, or gases in the body, or by the introduction of the

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same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities, or by any other method intended to disinfect or preserve a dead human body. The placing of any such chemical or substances on or in a dead human body by any person who is not a licensed embalmer shall be deemed a violation of this Act, provided that this shall not apply to a registered apprentice working under the supervision of a licensed embalmer. All persons who are engaged in the business of embalming or who profess to be engaged in such business, or hold themselves out to the public as embalmers, shall be licensed embalmers.

E. The term "apprentice" as herein used is a person engaged in learning the practice of funeral directing and/or embalming under the instruction, direction, and personal supervision of a duly licensed funeral director and/or embalmer of and in the State of Texas in accordance with the provisions of this Act, and having been duly licensed as such by the Board prior thereto.

F. The term "apprenticeship" as used herein shall be construed as diligent attention to assigned duties and other subject matter in the course of regular employment in a licensed funeral establishment in this state. This regular employment must involve at least forty (40) working hours per week which may be cumulated in any manner under actual working conditions and under the personal supervision of a licensee, in order for an apprentice to qualify as a licensed funeral director and/or embalmer.

G. The term "funeral establishment" as herein used is a place of business used in the care and preparation for burial or transportation of dead human bodies, or any place where one or more persons, either as sole owner, in co-partnership, or through corporate status, represent themselves to be engaged in the business of embalming and/or funeral directing, or as so engaged. Such funeral directing and embalming shall be performed only under the supervision and direction of a licensed funeral director and/or embalmer.

H. The term "due notice" as herein used shall mean published notice of the time and place of regular meetings of the Board. Notice of time, place, and purpose of any meeting of the Board published in at least three (3) daily newspapers in three (3) separate cities in the state, at least fifteen (15) days prior thereto, shall be adequate notice for any regular meeting, including the giving of examinations, however, a notice of a meeting wherein a change in the rules and regulations of the Board are to be considered, shall be given by written notice to all licensees in the State of Texas, at the address registered with the Board, at least thirty (30) days in advance of any hearing thereon.

I. The term "mortuary science" as herein used, shall mean the scientific, professional and practical aspects, with due consideration given to accepted practices, covering the care, preparation for burial or transportation of dead human bodies, which shall include the preservation and sanitation thereof and restorative art, and as such is related to public health, jurisprudence, and good business administration.

J. An "accredited school or college of mortuary science" is a school or college which maintains a course of instruction of not less than forty-eight (48) calendar weeks or four (4) academic quarters or college terms and which gives a course of instruction in the fundamental subjects as set forth herein: (a) mortuary management and administration; (b) legal medicine and toxicology as it pertains to funeral directing; (c) public health, hygiene and sanitary science; (d) mortuary science, to include embalming technique, in all its aspects; chemistry of embalming, color

harmony; discoloration, its causes, effects and treatment; treatment of special cases; restorative art; funeral management; and professional ethics; (e) anatomy and physiology; (f) chemistry, organic and inorganic; (g) pathology; (h) bacteriology; (i) sanitation and hygiene; (j) public health regulations; and (k) other course of instruction in fundamental subjects prescribed by the Board.

K. An "official application blank," as that term is used herein, is a sheet bearing blank spaces for the entering of stipulated information, which sheet shall be filled in by any person who seeks employment as funeral director or embalmer in this state. The form of this application blank shall be prescribed by the Board. Prospective employers shall have job applicants fill in this application blank and shall remit it upon completion to the Board. The Board shall inform employers as soon as possible of the status of the license of any person for whom it receives an official application blank.

The Board

Sec. 2. A. There is hereby created the State Board of Morticians, with offices located in Austin, Texas, consisting of six (6) members who shall be citizens of the United States and residents of the State of Texas, and shall be licensed embalmers and funeral directors in the State of Texas. Each shall have a minimum of ten (10) years, consecutively, of such experience in this state immediately preceding appointment. The members of said Board shall be appointed by the Governor, by and with the consent of the Senate for a period of six (6) years. Each member shall be subject to removal by the Governor for neglect of duty, incompetence, or fraudulent or dishonest conduct. The Governor shall remove from the Board any member whose license to practice funeral directing and/or embalming has been voided, revoked or suspended. The Governor, in appointing members to the Board, shall designate their terms so that two (2) places on the Board shall become vacant each two (2) years. Any vacancy in an unexpired term shall be filled by appointment of the Governor for the unexpired term. No member of the Board shall be appointed for more than two (2) terms of service.

B. The members of said Board, before entering upon their duties, shall take and subscribe to the oath of office prescribed for other state officials, which oath shall be filed in the office of the Secretary of State, after having been administered under proper authority. Each person appointed to the Board shall be furnished with a certificate of appointment by the Governor which shall bear evidence of the taking of oath of office.

C. The Board shall meet in Austin, Texas, in regular session at least two (2) times each year for the transaction of business. Examination for funeral directors and embalmers shall be held at least once during each year at such times and places as the Board may designate and give due notice thereof. Special meetings or hearings may be held at such time and place as may be determined by and upon call of the President, Vice-President or three (3) members of the Board.

D. The Board shall elect a President, Vice-President, and Secretary from the members of the said Board who shall serve two (2) years, or until their successors shall be elected and qualified. In the absence of an Executive Secretary, the Secretary shall be bonded to the State of Texas in a sum equal to the maximum annual anticipated receipts of the Board and any premium payable for such bond shall be paid from the funds of the Board; likewise, the Board will require a bond of the Executive Secretary, if any, and such bond shall be deposited with the State Auditor of the State of Texas. The Secretary shall deliver all money on hand at the end of his

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term of office to his successor, and the Executive Secretary shall deliver all money on hand to the Secretary upon relief from duty. The President of the Board shall preside at all meetings of the Board unless otherwise ordered, and he shall exercise all duties and performances incident to the office of the President of the Board, and in his absence the Vice-President shall preside. A majority of the membership of the Board shall constitute a quorum for the transaction of business.

E. The Board shall make an annual report covering the work of the Board for the preceding fiscal year, and such report shall include:

1. An itemized account of money received and expended and the purpose therefor which has been duly certified by the State Auditor or a Certified Public Accountant;

2. The names of all duly licensed funeral directors, embalmers, and funeral establishments. A copy of this report shall be furnished each licensed funeral director and embalmer in this state. A copy shall likewise be filed with the Secretary of State for permanent record, a certified copy of which, under the hand and seal of the Secretary of State, shall be admissible as evidence in all courts.

F. The Board shall preserve a record of its proceedings in a book kept for that purpose.

G. The Board shall keep a permanent, alphabetical record of all applications for licenses and the action thereon. Such records shall also show, at all times, the current status of all such applications and licenses issued.

H. The Board may employ such inspectors, and clerical and technical assistants, legal counsel, including an Executive Secretary, as may be determined by it to be necessary to carry out the provisions of this Act, and the terms, conditions and expenses of such employment shall be determined by the Board.

I. Membership of the Board shall be reimbursed for necessary traveling expenses incident to attendance upon the business of the Board, and in addition thereto, each shall receive a per diem allowance of Twenty-five Dollars (\$25) for each day actually spent by such member upon attendance to the business of the Board, not to exceed fifty (50) days within a calendar year. The Secretary, in the absence of an Executive Secretary, notwithstanding membership on the Board, shall receive and be paid a salary for the time he devotes to the business of the Board, and the amount and method of payment shall be fixed by the Board and in addition thereto, he shall receive necessary traveling expenses incurred in the performance of such duty; provided, however, he shall not be paid a per diem allowance during the time he is compensated on a salary basis; and provided that all such expenses, per diem allowance and compensation shall be paid out of the receipts of the Board. All fees received under the provisions of this law in excess of the necessary and proper expenses of the Board shall be held by the Secretary of the Board as a special fund with which to pay the expense of the Board in administering and enforcing this Act. No claim for traveling expenses or per diem allowance shall be allowed or paid unless the claim be in writing and signed by the claimant under oath.

J. Except as otherwise provided by law, all records of the Board shall be open to inspection by the public during regular office hours.

K. All meetings of the Board shall be open and public.

L. The Board shall prescribe the form of the official application blank. It shall notify the proprietor of each licensed funeral establishment in

this state that any person who seeks employment as a funeral director or embalmer must fill in this application blank, and that the person receiving the application must mail a copy of the official form to the Board. The Board shall inform the prospective employer of the status of the applicant's license to engage in the activity he proposes.

M. The Board may adopt such administrative procedures as may be desirable to effect the intent of the provisions of this Section.

Licenses—Funeral Directors and Embalmers

Sec. 3. A. The Board is hereby authorized and empowered and it shall be its duty to prescribe and maintain a standard of proficiency, character and qualifications of those engaged or who may engage in the practice of a funeral director or embalmer and to determine the qualifications necessary to enable any person to lawfully practice as a funeral director, to embalm dead human bodies, and to collect the fees therefor. The Board shall examine all applicants for funeral directors and embalmers licenses and for apprenticeship licenses and shall issue the proper license to all persons qualified and who meet requirements herein prescribed.

B. The minimum requirements for the issuance of licenses by this Board to practice funeral and/or embalming in Texas are as follows, to-wit:

1. For a license to practice funeral directing: the applicant shall be found by the Board to be not less than twenty-one (21) years of age, a resident of the State of Texas, and a citizen of the United States, of good moral character, having graduated from an accredited high school or passed examination prescribed by the Texas Education Agency from an accredited school or college of mortuary science approved by this Board, having served as an apprentice for at least one (1) year under the personal supervision and instruction of a licensed funeral director and having satisfied the Board through oral and written examination as to his proficiency by examination on the subjects of: (a) the art and technique of funeral directing; (b) signs of death; (c) the manner by which death may be determined; (d) sanitation; (e) hygiene; (f) mortuary management and mortuary law; (g) business and professional ethics; (h) laws applicable to vital statistics pertaining to dead human bodies; (i) rules and laws governing preparation, transportation and disposition of dead human bodies; and such other subjects as may be taught in a recognized school or college of mortuary science.

2. For a license to practice embalming; the applicant shall have been found by the Board to be not less than twenty-one (21) years of age, a resident of the State of Texas, and a citizen of the United States, of good moral character having graduated from an accredited high school or passed examination prescribed by the Texas Education Agency having graduated from an accredited school or college of mortuary science approved by this Board, having served as an apprentice for two (2) years under the personal supervision of a licensed embalmer, and having satisfied the Board as to his proficiency through oral and written examination on the subjects of: (a) anatomy of the human body; (b) the cavities of the human body; (c) the arterial and venous system of the human body; (d) blood and discoloration; (e) bacteriology and hygiene; (f) pathology; (g) chemistry and embalming; (h) arterial and cavity embalming; (i) restorative art; (j) disinfecting; (k) embalming special cases; (l) contagious and infectious diseases; (m) mortuary management; (n) care, preservation, transportation and disposition of dead human bodies; (o) laws applicable to vital statistics pertaining to dead human

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bodies; (p) sanitary science; and such other subjects as may be taught in a recognized school or college of mortuary science, and shall at the request of the Board, demonstrate his proficiency as an embalmer.

C. The Board is hereby authorized and empowered and it shall be its duty to approve a course of instruction to be given by any college of mortuary science or recognized school of higher learning that desires to be approved by the Board. And it shall be the duty of the Board to examine and supervise the activities of an accredited school or college of mortuary science so as to insure that said college or school is meeting the requirements of the Board.

D. It shall be the duty of the Board to prescribe and supervise the course of instruction received by an apprentice while serving his or her apprenticeship, consistent with the following requirements to establish such an apprenticeship registration procedure:

1. Apprenticeship for embalmer: A license to practice the science of embalming shall not be issued unless and until the applicant therefor has served an apprenticeship period of not less than twenty-four (24) months under the personal supervision and instruction of a licensed embalmer and has successfully completed all requirements of apprenticeship. The only exception to this requirement shall be in the case of an applicant under reciprocity.

(a) Apprenticeship for a license to practice the science of embalming may be served in two ways: Any person, nineteen (19) years of age, or more, who desires to practice the science of embalming in this state, files application therefor, and meets the requirements of the law and this Board, may be registered as an apprentice. The applicant may, also, apply for and serve twelve (12) months apprenticeship before entry into a school of embalming or college of mortuary science, and the remaining twelve (12) months may be served after having attended an approved school or college of mortuary science, and graduating therefrom, or, the applicant may serve the full twenty-four (24) months period after completing and graduating from a school or college of mortuary science, if, in the discretion of the Board, such applicant is of good moral character and possesses such qualification to enter into apprenticeship training. No part of the apprenticeship time may be served during the year in which the applicant is attending a school or college of mortuary science as defined herein. Applicant shall pay a fee of not to exceed Ten Dollars (\$10) at the time he requests such apprenticeship registration.

(1) A person qualifying in this manner shall serve at least one (1) year of apprenticeship immediately following the successful passing of the written examination accorded him by the Board.

(2) An applicant for a license to practice the science of embalming who attains a grade of 75% or higher on the written examination given by the Board upon payment of a fee not to exceed Ten Dollars (\$10) therefor, shall be registered as an apprentice within six (6) months of such examination.

(b) Each registered apprentice embalmer shall be issued a certificate of apprenticeship or other means of apprenticeship identification by the Board to be served in the State of Texas. During the period of apprenticeship he shall assist in embalming a minimum of one hundred (100) dead human bodies, ten (10) of which bodies the apprentice shall embalm after the first year of apprenticeship without aid but in the immediate presence and under the personal supervision of an embalmer duly and currently

licensed in the State of Texas. No more than two (2) apprentices may receive credit done for work on any one body.

(c) An apprentice embalmer must report within ten (10) days thereof of each separate case handled by him or with which he has assisted in handling. Each such report shall be certified by the licensee under whom the apprentice performed his work. Throughout the period of apprenticeship, the apprentice shall report on at least one (1) such case of embalming each calendar month, within the month. In any month in which he did not embalm at least one (1) case under the direction of a licensed embalmer, a report shall be made to the Board notwithstanding.

2. **Apprentice for Funeral Director:** The term of apprenticeship for a funeral director's license shall be a period of not less than twelve (12) months, and may be served concurrently with apprenticeship for an embalmer's license; however, apprenticeship must be served either before or after the examination. A person desiring to become an apprentice funeral director shall make application to the Board on a form provided by the Board, and if the Board desires, he shall appear before at least one (1) member of the Board, or a designated representative thereof, for approval of his application, subject to review of it by the entire Board. Applicant must be not less than nineteen (19) years of age, a person of good moral character and have completed the education requirements prescribed for a funeral director, except an applicant for a funeral director's license may elect to serve apprenticeship therefor in like manner to that of one who has applied for a license to practice the science of embalming, by serving one (1) year of apprenticeship prior to completing a course of study in funeral directing prescribed by the Board and graduating from a school of embalming or college of mortuary science. The application for registration shall be sworn to and accompanied by a fee of not to exceed Ten Dollars (\$10). If the application is accepted, applicant will be issued a certificate of apprenticeship registration upon determination by the Board that his qualifications are satisfactory.

(a) An applicant for a funeral director's license and the examination therefor who has not completed one (1) year of apprenticeship prior to graduation from a school of embalming or college of mortuary science shall be admitted to apprenticeship only in the event he shall have attained a grade of 75% or higher on the written, oral and practical examinations given by the Board, and the payment of a fee of not to exceed Ten Dollars (\$10) therefor, whereupon he shall be registered as an apprentice. Provided, however, applicant must register as an apprentice within six (6) months of such examination.

(b) An apprentice funeral director must report within ten (10) days thereof of each separate case with which he has assisted in handling. Each such report shall be certified to by the licensee under whom the apprentice performed the work. Throughout the period of apprenticeship the apprentice shall report on at least one (1) such case each calendar month, within the month. In any month within which he did not assist a funeral director in handling a funeral, a report shall be made to the Board notwithstanding.

(c) During the course of apprenticeship each apprentice shall assist a licensed funeral director in this state to prepare, other than by embalming, and to make final disposition of not less than one hundred (100) dead human bodies, ten (10) of which bodies the apprentice shall handle, after graduation from an approved school of embalming or college of mortuary science, where one (1) year of apprenticeship was served prior to entrance into an institution for preparation by him to become a funeral director.

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The Board may require other evidence of his ability, in its discretion. No more than two (2) apprentices may receive credit for work done on any one body.

3. Annual renewal apprenticeship certificate: Each certificate of apprenticeship issued by the Board to an apprentice embalmer or apprentice funeral director must be renewed on the first day of January of each year and will be renewed upon payment by the apprentice of a renewal fee not to exceed Ten Dollars (\$10), provided the apprentice has conducted himself with propriety and observed the rules and regulations of the Board with respect to his apprenticeship. Notice shall be mailed, during the month of December each year, to each registered apprentice at his last known address, notifying him that the renewal fee is due. If the renewal fee is not paid on or before the 31st day of January in the year in which it became due, a penalty in the sum of not to exceed Ten Dollars (\$10) will be added to the renewal fee of each certificate when paid. Fifteen (15) days after the grace period as above provided if said annual renewal fee and penalty still remain unpaid, it shall be the duty of the Board, acting through its Secretary, to suspend his certificate for nonpayment of the annual renewal fee and to notify such apprentice of such suspension by registered mail, addressed to his last known address. If the said renewal fee and penalty is not then paid within thirty (30) days from date of such notice of suspension, the Board shall then cancel such certificate. Provided, however, after an apprentice certificate has been cancelled, the apprentice may apply for reinstatement within eighteen (18) months from the date such apprentice certificate was cancelled and the Board may, in its discretion, reinstate said apprentice provided he meets all other requirements of the Board. It is provided that the registration fee of any apprentice who is actively engaged in the military service of the United States may, in the discretion of the Board, be remitted for the duration of such service or for such fees and such time as the Board may deem advisable upon presentation of proper evidence required by the Board.

4. Notification of the Board upon entry into apprenticeship: When an apprentice enters the employ of a licensed embalmer or funeral director, he shall immediately notify the Board the name and place of business of the licensed embalmer or funeral director whose services he has entered and the name of the funeral director or embalmer under whom he will train, and such notification shall be signed by the embalmer or funeral director in each case. If at any time thereafter such apprentice leaves the employ of the licensed embalmer or funeral director whose services he has entered, the said licensed embalmer or funeral director shall give to such apprentice an affidavit showing the length of time he has served as an apprentice with him and the number of cases handled while so employed; the original of said affidavit shall be filed with the Board and made a matter of record, and a copy shall be furnished to the apprentice. The Board shall furnish report forms to be used by each apprentice.

5. Certificate of apprenticeship may be suspended or revoked as provided and set forth in Section 3, subsection H.

E. Any person engaged or desiring to engage in the practice of embalming or funeral directing in this state, in connection with the care and disposition of dead human bodies, shall make written application to the Board for a license accompanying same with a fee not to exceed Fifty Dollars (\$50). The license or licenses when issued shall be signed by a majority of the Board and shall authorize the licensee to practice the science of embalming and/or funeral directing. All licenses shall be registered in the office of the County Clerk in any county in which the holder thereof

resides and practices embalming and/or funeral directing and shall be displayed conspicuously in the place of business. Every licensed embalmer and/or funeral director who desires to continue his practice shall annually pay to the Secretary of the said Board a fee not to exceed Ten Dollars (\$10) for the renewal of each funeral director's license and each embalmer's license. Said license shall become due and payable annually on the 31st day of May, and the Board will give written notice on or before April 1st, of each year that the license fees are due and payable. When a licensee under this Act shall fail to pay his annual registration fee, it shall be the duty of the Board to notify such licensee at his last known address that his annual registration fee is due and unpaid and that a penalty equal to the amount of the registration fee has been added. If such fee and penalty are not paid within fifteen (15) days after notification by regular mail, it shall be the duty of the Board to suspend the license and notify the licensee by certified mail, return receipt requested, of such suspension. Thirty (30) days after the Board shall have declared a license suspended, as provided herein, the license shall be automatically cancelled and the Board may thereafter in its discretion refuse to reinstate the licensee until the applicant has passed a regular examination for license as provided in this Act. If any license issued under this Act shall be lost or destroyed, the holder of any such license may present his application for duplicate license to the State Board of Morticians, on a form to be prescribed by the Board, together with his affidavit of such loss or destruction, and that he is the same person to whom such license was issued, and such other information concerning its loss or destruction as the State Board of Morticians shall require, and shall, upon payment of a fee not to exceed Ten Dollars (\$10), as determined by the Board, be granted a duplicate license; provided further, that the same fee as set forth above for duplicate licenses shall also apply to endorsements by the Board.

F. (1) The Board is authorized to make certain reciprocal arrangements. The State Board of Morticians, may in its discretion, upon payment by an applicant of a fee of One Hundred Dollars (\$100) grant a license to practice as a funeral director and/or embalmer to persons who furnish proof that they have been registered for at least three (3) years as such, in some other state or territory of the United States; provided that the licensing board of such other state or territory in its examination requires the same general degree of fitness required by this state. Said application shall be accompanied by an affidavit made by the President or Secretary of the Board of Mortician Examiners which issued the license, or by a duly constituted registration officer of the state or territory by which the certificate or license was granted, and on which the application for registration in Texas is based, reciting that the accompanying certificate or license has not been cancelled, suspended or revoked, and that the statement of the qualifications made in the application for a license in Texas is true and correct. Applicants for a license under the provisions of this Act shall subscribe to an oath in writing before an officer authorized by law to administer oaths, which shall be a part of such application, stating that the license, certificate, or authority under which the applicant practiced as a funeral director or embalmer in the state or territory from which the applicant removed, was at the time of such removal in full force and effect and not cancelled or suspended or revoked. Said application shall also state that the applicant is the identical person to whom the said certificate, license, or commission was issued, and that no proceeding has been instituted against the applicant for the cancellation, suspension or revocation of such certificate or license in the state or territory in which the same was issued; and that no prosecution is pending

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

against the applicant in any state or federal court for any offense which, under the laws of the State of Texas, is a felony, or a misdemeanor involving moral turpitude.

(2) Licenses granted under this subsection shall be on the following basis: Before a license is granted, the applicant shall receive a temporary permit good for one (1) year from date of issuance by the Board. At the end of one (1) year, the holder of said temporary permit shall again appear before the Board and if he has complied with the laws of this state, the Board shall again consider his application for license and in its discretion, providing he meets all other requirements, may grant said applicant a license.

G. Licenses currently outstanding shall be recognized under this Act. Any person, personally holding a current funeral director's and/or embalmer's license granted by the proper authorities in this state, shall not be required to make application for or submit to an examination, but shall be entitled to a renewal of his license, upon expiration of such current license, under the terms and conditions as herein provided for the renewal of licenses of those who may be licensed after the passage of this Act. All such persons shall be subject to every other provision of this Act.

H. The State Board of Morticians is hereby authorized and empowered and it shall be its duty to conduct hearings to revoke, suspend, or place on probation any licensed funeral director and/or embalmer, or apprentice, and may refuse to admit persons to examination for any of the following reasons:

1. The presentation to the Board of any license, certificate, or diploma, which was illegally or fraudulently obtained, or when fraud or deception has been practiced in passing the examination;
2. Conviction of a crime of the grade of a felony or of a misdemeanor involving moral turpitude;
3. Unfit to practice as a funeral director and/or embalmer by reason of insanity or has been adjudged by a court of competent jurisdiction to be of unsound mind;
4. The use of any advertising statement of a character which misleads or deceives the public, or use, in connection with advertisements, the names of persons who do not hold a license as a funeral director or embalmer and represent them to be so licensed;
5. The purchase, sale, barter, or use, or any offer to purchase, sell, barter, or use any license, certificate, or transcript of license or certificate, in or incident to an application to the Board of Morticians for license to practice as a funeral director and/or embalmer;
6. Altering, with fraudulent intent, any funeral director and/or embalmer license, certificate, or transcript of license or certificate;
7. The use of any funeral director and/or embalmer license, certificate, diploma, or transcript of any such funeral director and/or embalmer license, certificate, or diploma, which has been fraudulently purchased, issued, counterfeited, or materially altered;
8. The impersonation of, or acting as proxy for, another in any examination required by this Act for a funeral director and/or embalmer license;
9. The impersonation of a licensed funeral director or embalmer as authorized hereunder, or permitting, or allowing, another to use his license, or certificate to practice as a funeral director or embalmer or mor-

tician in this state, for the purpose of embalming or practicing the science of embalming, in connection with the care and disposition of the dead, or acting as a funeral director or practicing as a funeral director in this state, in connection with the care and disposition of the dead;

10. Using profane, indecent or obscene language within the immediate hearing of the family or relatives of a decedent, in proximity to a deceased person whose body has not yet been interred or otherwise disposed of; or the indecent exposure of a dead human body;

11. Refusing to promptly surrender a dead human body, upon the express order of a person in possession of lawful authority therefor, to a licensed funeral director or embalmer or an agent or employee of the same;

12. Wilfully making any false statement on a certificate of death;

13. Employment directly or indirectly of any apprentice, agent, assistant, embalmer, funeral director, employee, or other person on a part or full-time basis, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;

14. Presentation of false certification of work done as an apprentice on apprenticeship records;

15. Unfitness by reason of drug addiction; and

16. Whenever a licensee, apprentice, or any other person, whether employee, agent or representative, or one in any manner associated with a funeral establishment shall solicit business or offer any inducement, pecuniary or otherwise, for the purpose of securing or attempting to secure business for such funeral establishment, unless such solicitation is made pursuant to a permit issued under the provisions of Article 548b, Texas Vernon's Civil Statutes, or Senate Bill No. 129, Acts of the 58th Legislature, Regular Session, 1963.¹

I. The Board may issue such rules and regulations as may be necessary or desirable to effect the intent of the provisions of this Section.

¹ Article 548b.

Funeral Establishments

Sec. 4. A. All funeral establishments shall be licensed by the Board. All licenses shall expire at midnight on August 31st of each year. The license fee shall not exceed Twenty-five Dollars (\$25) for issuance of licenses to existing establishments and for renewal licenses. Funeral establishments existing at the time of the effective date of this Act shall be notified by order of the Board to pay an initial license fee and upon receipt thereof the initial license shall be duly issued. Funeral establishments created after the effective date of this Act shall apply for a license, and upon satisfaction to the Board that this Section has been complied with and upon receipt of the licensing fee, which shall not exceed One Hundred Dollars (\$100), an initial license shall be duly issued to such new establishments. Not later than thirty (30) days prior to the expiration date of licenses, the Board shall cause to be issued notification in writing by mail to each licensed funeral establishment that a renewal fee not to exceed Twenty-five Dollars (\$25) must be paid by September 1st before such license shall be renewed, and upon due receipt of such fees all existing licenses shall be considered automatically renewed. Any establishment which fails to pay its license renewal fee as herein provided within thirty (30) days after August 31st may be required by the Board to pay a penalty of Twenty-five Dollars (\$25) in addition to the regular

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

fee, and if the delinquency is more than thirty (30) days, the establishment shall not be permitted to operate as a funeral home until it has applied for and has been granted a new license as in the case of original applications and licenses for new funeral establishments.

B. No funeral establishment shall conduct funeral business as intended under this Act unless duly licensed.

C. Each funeral establishment shall be required to have a physical plant, equipment and personnel consisting of the following:

1. Adequate facilities in which funeral services may be conducted;
2. A preparation room being used by such establishment that meets the sanitary code of the State of Texas and the municipality in which same is located;
3. A physical plant which meets building standards and fire safety standards of the state and of the municipality in which the establishment is located;
4. Access to rolling stock consisting of at least one motor hearse;
5. A preparation room that is secluded from the public, properly ventilated, and containing an operating table, sewer facilities, hot and cold running water, and sufficient instruments, chemicals and so forth to embalm a dead human body;
6. A display room containing sufficient merchandise to permit reasonable selection, including five (5) or more adult caskets;
7. Sufficient licensed personnel who will be available to conduct the operation of the funeral establishment;
8. A physical plant located at a fixed place, and not located on any tax-exempt property or cemetery; and
9. A physical plant which meets the health standards on health ordinances of the state and of the municipality in which the establishment is located.

D. 1. Failure of a funeral establishment to substantially comply with the provisions of paragraph C of this Section shall constitute the only grounds upon which the Board may initiate formal complaint or other action against a funeral establishment or in regard to the license of a funeral establishment.

2. As to asserted violations of provisions of paragraph C of this Section, the Board shall have the following powers, rights and duties:

(a) The Board may, in any case, require a sworn statement setting forth matter complained of as a condition to taking further action.

(b) The Board shall cause an investigation to be made whenever a complaint is filed with or by the Board.

(c) As to the licenses of funeral establishments, except when the accused admits a violation and agrees in writing to a judgment of the Board suspending or revoking the license in question or placing the accused on probation, the Board shall have no power or authority to suspend or revoke the license of the accused, however, the Board shall have the right to initiate a civil action in a District Court in the county in which the accused resides for the purpose of seeking a revocation or suspension of such license or probationary action all as hereinafter provided.

3. The term "Accusation" or "Complaint" shall embrace all complaints brought before the Board. By the terms "civil suit," "court action" or

"formal complaint" is meant the pleading by which disciplinary action is instituted by the Board in a District Court of this state.

4. In any investigation or hearing by the Board it may require the attendance of witnesses by issuing notices to witnesses, and ordering them to appear and testify. The Board may require testimony to be given under oath or affirmation. Such notice to a witness shall be issued at the request of the Board or the accused licensee or the organization whose application for license has been denied. Such notice must be in writing and signed by the presiding member of the Board, and shall notify the witness of the time and place to appear. Notice to a witness shall be served on him personally or by mailing the same to him by registered mail, return receipt requested. Proof of such may be made by certificate of the person making the same, with return receipt attached when made by registered mail.

If any witness fails or refuses to appear before the Board, such witness shall be compelled by a judge of any District Court to appear and testify at a hearing before such judge in the same manner as witnesses may be compelled to appear and testify in a civil suit in a District Court. Application for such hearing may be filed by any party to such proceedings in any District Court of the county in which such witness resides or may be found. The judge shall fix by order a time and place for such hearing and shall provide for such notice to the Board and the accused or the applicant for a license or certificate which has been denied as he determines proper. If such witness fails to appear or testify he shall be punished as in cases of contempt.

5. If the Board shall be of the opinion that the license of the accused should be revoked or suspended for a period not to exceed three years, and if the accused will accept a decision of the Board to such effect, it shall prepare a formal judgment and submit the same to him; and upon his agreement to its entry, evidenced by memorandum in writing signed and acknowledged by him, the Board shall enter judgment accordingly and the same shall have the force and effect of a judgment of the District Court of the county of the residence of the accused. A copy of the judgment, together with a copy of the complaint, shall be mailed to the clerk of the District Court of the county of residence of the accused for entry in the minutes of the court.

6. (a) The Texas rules of civil procedure shall govern the procedure in all proceedings under Civil Actions (Formal Complaint).

(b) The District Attorney or the County Attorney of the county of the residence of the accused licensee as defendant, or the Attorney General or such counsel as the Board may designate shall represent the Board as it shall determine.

(c) The formal complaint shall be the pleading by which the proceeding is instituted. The formal complaint shall be filed in the name of the Texas State Board of Morticians as plaintiff against the accused licensee as defendant and shall set forth the violation with which the defendant is charged. The prayer may be that the defendant "be placed on probation or his (its) license suspended or revoked as the facts shall warrant."

(d) The answer of the defendant to the formal complaint shall either admit or deny each allegation of the petition, except where the defendant is unable to admit or deny the allegation, in which case defendant shall set forth the reasons he (it) cannot admit or deny.

(e) Proceedings under formal complaint shall be entitled to preferred setting at the request of either party.

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

(f) If the court shall find from the evidence in a case tried without a jury, or from the verdict of the jury, if there be one, that the defendant is guilty of no violation, he shall enter judgment so declaring and dismiss the complaint; but if he shall find the defendant guilty, he shall determine whether the party shall be (a) placed under probation (in which case he shall specify the terms thereof), (b) the license suspended (in which case he shall fix the term of suspension), or (c) the license revoked; and he shall enter judgment accordingly. If the judgment be one finding the defendant guilty as aforesaid, it shall direct transmittal of certified copies of the judgment and complaint to the Secretary of the Board of Morticians; and the latter shall make proper notation on the membership rolls.

(g) At any time after the expiration of one year from the date of final judgment of revocation of a license, such party may petition the District Court of the county of his residence for reinstatement. Notice of such action shall be given to the Secretary of the State Board of Morticians.

(h) The Board shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Section. Said action for an injunction shall be in addition to any other action, proceeding, or remedy recognized by law. The Board shall be represented by counsel designated by it, or, by the Attorney General and/or County and District Attorney of this state.

E. Each funeral establishment shall designate to the Board a funeral director in charge, and such funeral director in charge shall be directly responsible for the funeral directing and embalming business of the licensee. Any change or changes in such designation shall be given to the Board promptly.

F. The Board may issue such rules and regulations as shall comply with and shall effect the intent of the provisions of this Section.

G. Any premises on which funeral directing or embalming is practiced shall be open at all times to inspection by any agent of the Board or by any duly authorized agent of the state or of the municipality in which the premises are located. Each licensed funeral establishment shall be thoroughly inspected at least once each year by an agent of the Board or by an agent of the state or a political subdivision thereof whom the Board has authorized to make inspections on its behalf. A report of this annual inspection shall be filed with the Board.

Appeals

Sec. 4A. In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act.

Rules and Regulations

Sec. 5. A. The Board is authorized to promulgate such rules and regulations as it may deem advisable governing the granting, suspension and revocation of licenses as prescribed by the provisions of this Act.

B. Whenever it is provided in this Act that the Board may or shall issue any rules and regulations, such rules and regulations thereunder proposed shall be effective only after due notice and hearing.

Revocation, Cancellation or Suspension of Licenses of Funeral Directors, Embalmers and Apprentices

Sec. 6. The State Board of Morticians shall have the right to cancel, revoke, or suspend or place on probation the license of any individual person licensed under this Act as provided by subparagraph H of Section 3 above.

Proceedings under this Section shall be initiated by filing charges with the State Board of Morticians in writing and under oath. Said charges may be made by any person or persons. The President of the State Board of Morticians shall set a time and place for hearing, shall cause a copy of the charges, together with a notice of the time and place fixed for hearing, to be served on the respondent or his counsel at least ten (10) days prior thereto. When personal service is impossible, or cannot be effected, the Board shall cause to be published once a week for two (2) successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to reside and shall mail a copy of the charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than ten (10) days after the date of the last publication of the notice. At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records and publications authorized or required by the terms of this Act shall be privileged.

Any licensed funeral director and/or embalmer whose license has been revoked, suspended or renewal refused, or a person to whom the Board has refused to issue a license under this Act, shall have the right of appeal, from any such decision of the Board to any District Court in the county in which he resides within twenty (20) days from and after the date the said Board announces its final decision. In a suit brought to review orders, decisions, or other acts of the Board, the trial shall be de novo as that term is used and understood in an appeal from a Justice of Peace Court to the County Court, and action of the Board shall be stayed pending all appeals. Upon application, the Board may reissue a license to practice as a funeral director or embalmer to a person whose license has been cancelled or suspended, but such application, in the case of cancellation or revocation, shall not be made prior to one (1) year after the cancellation or revocation, and shall be made in such manner and form as the Board may require.

The State Board shall have the power to appoint committees from the membership. The duties of any committees appointed from the State Board of Morticians membership may consider such matters pertaining to the enforcement of this Act as shall be referred to such committees, and they shall make recommendations to the State Board of Morticians

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

with respect thereto. The State Board of Morticians shall have the power, and may delegate the said power to any committee, to issue subpoenas, and subpoenas duces tecum, and to compel the attendance of witnesses, the production of books, records and documents, to administer oaths, and to take testimony concerning all matters within its jurisdiction. The State Board of Morticians shall not be bound by such rules of evidence or procedure, in the conduct of its proceedings, but the determination shall be founded on sufficient legal evidence to sustain it. The State Board of Morticians shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Act. Said action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law. The State Board of Morticians shall be represented by the Attorney General and/or the County or District Attorneys of this state, or counsel designated and empowered by the Board. Before entering any order cancelling, suspending, refusing to renew, or revoking a license to practice as a funeral director and/or embalmer, the Board shall hold a hearing in accordance with the procedure as set forth in this Act.

CHAPTER EIGHTEEN—IDENTIFICATION OF SYSTEM OF HEALING

Art. 4590e. Healing Art Identification Act

Healing art identifications

Sec. 3.

(6) If licensed by the State Board of Chiropractic Examiners: chiropractist; doctor, D.S.C.; Doctor of Surgical Chiropractic; D.S.C.; podiatrist. As amended Acts 1963, 58th Leg., p. 39, ch. 26, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Section 2 of Acts 1963, 58th Leg., p. 39, ch. 26, provided: "Nothing in this Act in any way shall invalidate or affect or be construed to invalidate or affect any valid li-

cence duly issued by the State Board of Chiropractic Examiners and in effect on the effective date of this Act, or the lawful renewal or reinstatement of any license issued by said Board."

CHAPTER NINETEEN—NUCLEAR AND RADIOACTIVE MATERIALS [NEW]

Art.

4590g. Liability insurance for operators of atomic energy reactors [New].

Art. 4590f. Nuclear and radioactive materials; sources of ionization radiation; licensing and registration

Prospecting state lands for minerals, including fissionable materials, see art. 5421c

—7.

Art. 4590g. Liability insurance for operators of atomic energy reactors

Section 1. The governing boards of the State Institutions of Higher Learning, as State agencies, which are, or will be, constructing and operating atomic energy reactors, or otherwise performing experiments in the field of nuclear science, in cooperation with and licensed by the Atomic Energy Commission, or its successor in function, or any other govern-

mental agency, are authorized to purchase liability insurance in any amount not to exceed Two Hundred and Fifty Thousand Dollars (\$250,000), and to pay the premium therefor from any funds appropriated for that purpose.

Sec. 2. The defense of sovereign immunity shall not be available to or asserted by the insurer in any claim against it or in any cause of action arising thereon or growing out of a nuclear incident. Acts 1963, 58th Leg., p. 37, ch. 24.

Effective 90 days after May 24, 1963, date of adjournment.

The preamble to Acts 1963, 58th Leg., p. 37, ch. 24 read as follows:

"WHEREAS, The Federal laws governing the development, use, and control of atomic energy require, among other things, that certain licensees of the Atomic Energy Commission have and maintain financial protection to cover public liability claims arising from nuclear incidents; and

"WHEREAS, Section 2210(k), Title 42, United States Code provides that with respect to any license issued pursuant to Sections 2073, 2093, 2111, 2134(a), or 2134(c) of Title 42, for the conduct of educational activities to a person found by the Commission to be a nonprofit educational institution, the Commission shall exempt such licensee from the financial protection, requirement of Subsection (a) of Section 2210; and

"WHEREAS, It is further provided with respect to licenses issued between August 30, 1954, and August 1, 1967, for which the Commission grants such exemption:

"(1) the Commission shall agree to indemnify and hold harmless the licensee and other persons indemnified, as their interests may appear, from public liability in excess of Two Hundred and Fifty Thousand

Dollars (\$250,000) arising from nuclear incidents. The aggregate indemnity for all persons indemnified in connection with each nuclear incident shall not exceed Five Hundred Million Dollars (\$500,000,000), including the reasonable cost of investigating and settling claims and defending suits for damage;

"(2) such contracts of indemnification shall cover public liability arising out of or in connection with the licensed activity; and shall include damage to property of persons indemnified, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs; and

"(3) such contracts of indemnification, when entered into with a licensee having immunity from public liability because it is a State agency, shall provide also that the Commission shall make payments under the contract on account of activities of the licensee in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a State agency; now, therefore,"

Prospecting state lands for minerals, including fissionable materials, see art. 5421c—7.

Southern Interstate Nuclear Compact, see art. 4413c—1.

TITLE 75—HUSBAND AND WIFE

CHAPTER THREE—RIGHTS OF MARRIED WOMEN

Art. 4614. [4621] [2967] [2851] Wife's separate property

All property of the wife, both real and personal, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, as also the increase of all lands thus acquired, shall be her separate property. The separate property of the wife shall not be subject to the debts contracted by the husband before or after marriage nor for the torts of the husband. During marriage the wife shall have the sole management, control, and disposition of her separate property, both real and personal. As amended Acts 1961, 57th Leg., p. 446, ch. 219, § 1; Acts 1963, 58th Leg., p. 1188, ch. 472, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 4618. [4621] [2967] [2651] Sale of homestead

The homestead, whether the separate property of the husband or of the wife, or the community property of both, shall not be disposed of except by the joint conveyance of both the husband and the wife, except where the husband or wife is insane or has permanently abandoned the other, in which instances the husband or wife may sell and make title to any such homestead, if his or her separate property, in the manner provided in Article 1288, Revised Statutes of Texas, 1925. As amended Acts 1963, 58th Leg., p. 1188, ch. 472, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 4621. [4621] [2967] [2851] Liability of community property; exceptions

The community property of the husband and wife, other than the personal earnings of the wife and the revenues from her separate property, shall not be liable for debts or damages resulting from contracts of the wife, except for necessaries furnished herself and children, unless the husband joins in the execution of the contract; provided that her rights with reference to the community property on permanent abandonment by the husband shall not be affected by this provision. As amended Acts 1963, 58th Leg., p. 1188, ch. 472, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 4623. Repealed. Acts 1963, 58th Leg., p. 1188, ch. 472, § 4. Eff. 90 days after May 24, 1963, date of adjournment

Prior to repeal, this article was amended by Acts 1962, 57th Leg., 3rd C.S., p. 161, ch. 56, § 1. See, now, art. 4621.

Art. 4624. [4625] [2971] [2855] Judgment and execution

Upon the trial of any suit based upon a contract of the wife, the court shall decree that judgment may be levied upon her separate property, upon revenues from her separate property, or upon her personal earnings,

and if the husband be joined in any suit based upon a contract of the wife for necessities for herself and their common child or children and the court finds that such contract was for such necessities and that the debts so contracted or expenses incurred were reasonable and proper, the court shall also decree that execution may be levied upon the common property or upon the separate property of the husband. As amended Acts 1963, 58th Leg., p. 1188, ch. 472, § 5.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 76—INJUNCTIONS**IN GENERAL**

Art.

4646b. Charging or collecting usurious interest on loans [New].

IN GENERAL**Art. 4646b. Charging or collecting usurious interest on loans**

Section 1. The State of Texas through its Attorney General, or any district or county attorney, may institute a suit in the district court to enjoin any person, firm or corporation or any officer, agent, servant or employee of such person, firm or corporation who is engaged in the business of habitually loaning money for the use and detention of which usurious interest has been charged against or contracted to be paid by the borrower, from demanding, receiving or by the use of any means attempting to collect from the borrower usurious interest on account of any loan, or from thereafter charging any borrower usurious interest, or contracting for any usurious interest. All persons, firms or corporations, and their agents, officers, servants and employees similarly engaged in making loans of money as herein defined who reside in the same county, may be joined in a single suit and no plea of misjoinder of parties defendant shall ever be available to any defendant in such suit.

Sec. 2. By the term "habitually" as used in this Act is meant the making of as many as three (3) loans on which or in connection with which usurious interest is charged or contracted for within a period of six (6) months next preceding the filing of any such suit.

By the term "usurious interest" as used in this Act is meant interest at a rate in excess of ten per centum (10%) per annum, unless as to any class of credit transactions a higher rate of interest is fixed, as in the Texas Regulatory Loan Act, Acts of the 58th Legislature, Regular Session, 1963,¹ or other Acts fixing maximum interest rates, then as to such transactions, the term 'usurious interest' means interest at a rate in excess of that allowed by law.

Sec. 2a. Nothing in this Act shall in any way modify, alter or change any valid provision of Article 8 of Chapter 5 of House Bill No. 79, Acts of the Regular Session, 48th Legislature,² nor shall anything in this Act prevent charging of any actual and necessary expense now or hereafter permitted and authorized by law, and such shall not be considered interest.

In the trial of any application for injunction under this Act there shall exist a prima facie presumption that the actual and necessary expenses of making any such loan was One Dollar (\$1) for each Fifty Dollars (\$50), or fractional part thereof loaned; but this prima facie presumption shall extend only to the first note or debt owing at the same time by an individual to any person, firm, corporation, partnership or association, and shall not apply to any renewal or extension thereof unless the original note or debt and all extensions thereof were for a period of not less than sixty (60) days.

Sec. 3. In any such suit venue shall lie in the county of the residence of a defendant, or in a county where such business of loaning money

is being conducted by such defendant or in the county where such contract was entered into by the borrower.

Sec. 4. If any section, sentence, phrase or part of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining portions thereof. Acts 1943, 48th Leg., p. 227, ch. 144, as amended Acts 1963, 58th Leg., p. 550, ch. 205, § 25.

¹ Article 6165b.

² Article 342—508.

Effective 90 days after May 24, 1963, date of adjournment.

Inapplicability of article 4646b to licensees under the Texas Regulatory Loan Act where inconsistent with the Act, see article 6165b, § 29.

Art. 4668. Repealed. Acts 1963, 58th Leg., p. 114, ch. 65, § 3. Eff. 90 days after May 24, 1963, date of adjournment

Acts 1963, 58th Leg., p. 114, ch. 65, § 1 amended V.A.T.S. Tax.-Gen. art. 19.01 by adding thereto a section (10) which levied an annual occupation tax on billiard tables and which authorized cities and towns to

prohibit, regulate or control persons owning or operating billiard tables. Section 2 of the Act of 1963 was a severability provision.

INSURANCE CODE

CHAPTER ONE—THE BOARD, ITS POWERS AND DUTIES

Art.

1.26. Reserves on Credit Guaranty Insurance [New].

Art. 1.01. Short title

Exemption of persons doing business as insurance company from provisions of the Texas Regulatory Loan Act, see Vernon's Ann.Civ.St. art. 6165b, § 6.

Art. 1.04. Duties and Organization of the State Board of Insurance

Enforcement of provisions relating to credit life insurance and credit accident and health insurance, see art. 3.53, § 12.

Art. 1.14. Shall Issue Certificate of Authority

Validation of existing charters of mutual assessment companies, see art. 14.14a.

Art. 1.26. Reserves on Credit Guaranty Insurance

Section 1. For the purposes of this Article, "in-force insurance" means the outstanding balance on all insured accounts receivable, notes, bonds, or other evidences of indebtedness, without diminution by reason of any policy provision which limits the insurer's liability to an amount less than such outstanding balance. "Credit guaranty insurance" means insurance against loss or damage by reason of giving or extending of credit, or against loss by reason of the non-payment of the principal or interest of bonds, mortgages, or other evidences of indebtedness.

Sec. 2. The unearned premium reserve on credit guaranty insurance shall be computed in accordance with Article 6.01 of this Code.

Sec. 3. On such insurance, the case basis method shall be used to determine the loss reserve, which shall include a reserve for claims reported and unpaid and a reserve for claims incurred but not reported.

Sec. 4. In addition to the reserves specified in Sections 2 and 3 hereof, there shall be maintained, and reported in the insurer's financial statement as a liability, a special contingency reserve which shall be computed as follows:

(a) At the end of the first calendar year in which the insurer initially writes credit guaranty insurance, said reserve shall equal $\frac{1}{4}$ of 1% of the in-force insurance.

(b) At the end of each subsequent calendar year, a similar reserve of $\frac{1}{4}$ of 1% of the in-force insurance shall be computed and added to the reserve for the previous year or years; but the maximum reserve thus accumulated shall not exceed 5% of the in-force insurance. Added Acts 1963, 58th Leg., p. 1318, ch. 504, § 1.

Emergency. Effective June 11, 1963.

Calculation of reserve on fire insurance, see art. 6.01.

**CHAPTER THREE—LIFE, HEALTH AND ACCIDENT
INSURANCE**

**SUBCHAPTER D. POLICIES AND
BENEFICIARIES**

Art.
3.44a Standard Non-forfeiture Law [New].

**SUBCHAPTER E. GROUP INDUSTRIAL
AND CREDIT INSURANCE**

3.51—1. Payment of group insurance pre-
miums by cities, towns or vil-
lages [New].

**SUBCHAPTER G. ACCIDENT AND
SICKNESS INSURANCE**

Art.
3.71 Texas 65 Health Insurance Plans
[New].

SUBCHAPTER A. TERMS DEFINED; DOMESTIC COMPANIES

Art. 3.01. Terms Defined

Sec. 10. By the term "net assets" is meant the funds of the company available for the payment of its obligations in this state, including but not limited to:

(a) Uncollected premiums not more than three (3) months past due and deferred premiums on policies actually in force, after deducting from such funds all unpaid losses and claims and claims for losses, and all other debts, exclusive of capital stock; and

(b) All electronic machines, constituting a data-processing system or systems, and all other office equipment, furniture, machines and labor-saving devices heretofore or hereafter purchased for and used in connection with the business of an insurance company to the extent that the total actual cash market value of all of such systems, equipment, furniture, machines and devices constitute less than five per cent (5%) of the otherwise admitted assets of such company; and provided further, that the total value of all such property of a company must exceed Two Thousand Dollars (\$2,000), to qualify hereunder.

(c) The Commissioner of Insurance may adopt regulations defining electronic machines and systems, office equipment, furniture, machines and labor-saving devices as used in subsection (b), and provide for the maximum period for which each such class of equipment may be amortized.

(d) Companies regulated by the provisions of Chapter 14 of this Insurance Code, same being local mutual aid associations, local mutual burial associations and state-wide mutual assessment corporations, and companies regulated by the provisions of Chapter 22 of this Insurance Code, same being stipulated premium companies, may include among their admitted assets any asset herein designated as "net assets" except that companies regulated by the provisions of Chapter 14 of this Code may only include the same within the assets of the expense fund of any such company. As amended Acts 1963, 58th Leg., p. 185, ch. 105, § 1.

Effective 90 days after May 24, 1963, date
of adjournment.

Art. 3.11. Dividends; How Paid

"No life insurance company shall declare or pay any dividends to its policyholders, except from the expense loading and profits made by such company; provided, however, any such company not showing a profit may pay dividends on its participating policies from the expense loading on such policies; and provided further, that any payment of dividends from

the expense loading shall not be discriminatory as between policyholders. This shall not prohibit the issuance of policies guaranteeing, by coupons or otherwise, definite payments or reductions in premiums, but any such guarantee contained in policies or coupons issued after the effective date of this Act shall be treated as a definite contract benefit and so valued according to the reserve requirements of this Chapter using in the case of policies or coupons issued prior to the operative date of Article 3.44a (the Standard Non-forfeiture Law) reserve valuation net premium for such benefits which is a uniform percentage of the gross premium, provided that any policy containing such a contract benefit may be valued on a basis which provides for not more than one (1) year preliminary term insurance, and using in the case of policies or coupons issued on or after the operative date of Article 3.44a the commissioners reserve valuation method as defined in Article 3.28. No such company shall declare or pay any dividends to its stockholders, except from the earned surplus of said company, as defined in, and in the manner authorized or provided by the Texas Business Corporation Act. Nothing in this Section with respect to reserves shall apply to any policy issued prior to September 7, 1955. As amended Acts 1963, 58th Leg., p. 1117, ch. 434, § 1; Acts 1963, 58th Leg., p. 1362, ch. 518 § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 1362, ch. 518, § 2 provided: "All laws or parts of laws relating to stockholder dividends of life insurance companies organized under Chapter

3 of the Insurance Code which are in conflict with this Act are expressly repealed to the extent of the conflict only; and this Act shall prevail over any conflicting provisions or laws."

Standard valuation law, see art. 3.28.

SUBCHAPTER C. RESERVES AND INVESTMENTS

Art. 3.28. Standard Valuation Law

Title

"Section 1. This Article shall be known as the Standard Valuation Law.

Valuation of reserve liabilities for life policies and endowment contracts

Sec. 2. The State Board of Insurance shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, except that in the case of an alien company, such valuation shall be limited to its United States business, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, the Board may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, the Board may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the State Board of Insurance when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

Terms and rules in computing reserve liability on policies and contracts issued prior to operative date of Standard Non-forfeiture Law

Sec. 3. This Section shall apply only to those policies and contracts issued prior to the operative date of Article 3.44a (the Standard Non-forfeiture Law). The reserve liability of all such policies and contracts shall be computed in accordance with their terms and the following rules:

(1) As respects policies issued prior to the first day of January, 1910, the computation shall be on the basis of the American Experience Table of Mortality and four and one-half per cent ($4\frac{1}{2}\%$) interest per annum.

(2) As respects policies issued after the 31st day of December, 1909, and prior to January 1, 1948, the computation shall be on the basis of the Actuaries or Combined Experience Table of Mortality with four per cent (4%) interest per annum, if the interest rate guaranteed in the policy is four per cent (4%) per annum or higher. If any such policies were issued upon a reserve basis of an interest rate lower than four per cent (4%) per annum, then the computation shall be made on the basis of the American Experience Table of Mortality with interest at such lower specified rate.

(3) As respects policies issued after the 31st day of December, 1947, the computation shall be on the basis of the mortality table and interest rate specified in the respective policies, provided that (1) the specified rate of interest shall not exceed three and one-half per cent ($3\frac{1}{2}\%$) per annum; (2) the specified table for policies other than policies of industrial life insurance shall be the American Experience Table of Mortality, the American Men Ultimate Table of Mortality, the Commissioners 1941 Standard Ordinary Mortality Table, or, as respects policies issued after the 31st day of December, 1959, the Commissioners 1958 Standard Ordinary Mortality Table; and (3) the specified table for policies of industrial life insurance shall be the American Experience Table of Mortality, the Standard Industrial Mortality Table, the Sub-Standard Industrial Mortality Table, the 1941 Standard Industrial Mortality Table, or the 1941 Sub-Standard Industrial Mortality Table, or, as respects policies issued after the 31st day of December, 1963, the Commissioners 1961 Standard Industrial Mortality Table.

(4) As respects policies on female risks issued after the 31st day of December, 1959, other than policies of industrial life insurance, computation shall be based on any mortality table and rate of interest permitted under the preceding paragraph (3) and specified in the respective policies, but may at the option of the company be based on an age not more than three (3) years younger than the actual age of the insured.

(5) As respects policies issued on sub-standard risks and annuity contracts and contracts or policies for disability benefits and accidental death benefits, the computation shall be on the basis of the standards and methods adopted by the respective companies and approved by the State Board of Insurance.

(6) The reserve values of all policies of group insurance issued prior to May 15, 1947, shall be computed upon the basis of the American Men Ultimate Table of Mortality with interest at the rate of three per cent (3%) or three and one-half per cent ($3\frac{1}{2}\%$) per annum as provided in such policies. The reserve values of all policies of group insurance issued on and subsequent to May 15, 1947, and prior to January 1, 1961, shall be computed upon the basis of either the American Men Ultimate Table of Mortality or the Commissioners 1941 Standard Ordinary Mortality Table with interest at a rate not in excess of three and one-half per cent ($3\frac{1}{2}\%$)

per annum as provided in such policies. The reserve values of all policies of group insurance issued on and subsequent to January 1, 1961, shall be computed on the basis of an interest rate not exceeding three and one-half per cent ($3\frac{1}{2}\%$) per annum and such mortality table as shall be adopted by the company with the approval of the State Board of Insurance.

Minimum standard for valuation of policies and contracts issued on or after operative date of Standard Non-forfeiture Law; commissioners reserve valuation method

Sec. 4. This Section shall apply to only those policies and contracts issued on or after the operative date of Article 3.44a (the Standard Non-forfeiture Law). The minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation method defined in Section 5, three and one-half per cent ($3\frac{1}{2}\%$) interest, and the following tables:

(1) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of Section 6 of Article 3.44a (the Standard Non-forfeiture Law) as amended, and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in this Article may be calculated according to an age not more than three (3) years younger than the actual age of the insured.

(2) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of Section 7 of Article 3.44a (the Standard Non-forfeiture Law) as amended, and the Commissioners 1961 Standard Industrial Mortality Table for such policies issued on or after such operative date.

(3) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the State Board of Insurance.

(4) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951, any modification of such table approved by the State Board of Insurance, or at the option of the Company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(5) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1974, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after the operative date of Article 3.44a, and prior to January 1, 1974, either such tables or, at the option of the company, the Class (3) Disability Table (1926), or such other basis as may be approved by the State Board of Insurance. Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(6) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1974, the 1959 Accidental Death Benefits Table; for policies issued on or after the operative date of Article 3.44a, and prior to January 1, 1974, either such table or, at the option of the Company, the Inter-Company Double Indemnity Mortality Table, or such other basis as may be approved by the State Board of Insurance. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(7) For group life insurance, life insurance issued on the sub-standard basis and other special benefits, such tables as may be approved by the State Board of Insurance.

Reserves for life insurance and endowment benefits of policies providing uniform amount of insurance and requiring payment of uniform premiums

Sec. 5. Reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b), as follows:

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one year term premium for such benefits provided for in the first policy year.

Reserves according to the commissioners reserve valuation method for (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (2) annuity and pure endowment contracts, (3) disability and accidental death benefits in all policies and contracts, and (4) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of the preceding paragraph, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums. Such impairments and special hazards may also be disregarded in determining present value of benefits.

Aggregate reserves for all life policies; minimum amount

Sec. 6. In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of Article 3.44a (the Standard Non-forfeiture Law), be less than the aggregate reserves calculated in accordance with the method set forth in Section 5 and the mortality table or

tables and rate or rates of interest used in calculating non-forfeiture benefits for such policies.

Calculation of reserves for policies and contracts issued prior to operative date of Standard Non-forfeiture Law; standards

Sec. 7. Reserves for all policies and contracts issued prior to the operative date of Article 3.44a (the Standard Non-forfeiture Law) may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

Reserves for any category of policies, contracts or benefits as established by the State Board of Insurance, issued on or after the operative date of Article 3.44a (the Standard Non-forfeiture Law), may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any non-forfeiture benefits provided for therein. Provided, however, that reserves for participating life insurance policies issued on or after the operative date of Article 3.44a (the Standard Non-forfeiture Law) may, with the consent of the State Board of Insurance, be calculated according to a rate of interest lower than the rate of interest used in calculating the non-forfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the non-forfeiture benefits by more than one-half ($\frac{1}{2}\%$) per cent the company issuing such policies shall file with the State Board of Insurance a plan providing for such equitable increases, if any, in the cash surrender values and non-forfeiture benefits in such policies as the State Board of Insurance shall approve.

Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the State Board of Insurance, adopt any lower standard of valuation, but not lower than the minimum herein provided.

Deficiency reserve

Sec. 8. If the gross premium charged by any life insurance company on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period. As amended Acts 1963, 58th Leg., p. 1117, ch. 434, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Dividends, payment, see art. 3.11.

Art. 3.30. Repealed. Acts 1963, 58th Leg., p. 1117, ch. 434, § 3. Eff. 90 days after May 24, 1963, date of adjournment

See, now, the Standard Valuation Law, art. 3.28.

Art. 3.33

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Art. 3.33. Repealed. Acts 1963, 58th Leg., p. 864, ch. 332, § 1. Eff. 90 days after May 24, 1963, date of adjournment

Art. 3.35. Repealed. Acts 1963, 58th Leg., p. 864, ch. 332, § 1. Eff. 90 days after May 24, 1963, date of adjournment

Art. 3.37. Repealed. Acts 1963, 58th Leg., p. 864, ch. 332, § 1. Eff. 90 days after May 24, 1963, date of adjournment

Art. 3.39. Authorized Investments and Loans for "Domestic" Life Insurance Companies

PART I. AUTHORIZED INVESTMENTS

C. CAPITAL, SURPLUS AND CONTINGENCY FUNDS OVER AND ABOVE POLICY RESERVES

3. Limitation on Investment in Capital Stock.

It may not invest in its own capital stock, nor more than ten per cent (10%) of the amount of its capital, surplus, and contingency funds in the stock of any one corporation, nor in the stock of any manufacturing corporation with a capital stock of less than Twenty-five Thousand Dollars (\$25,000), nor in the stock of any oil corporation with a capital stock of less than Five Hundred Thousand Dollars (\$500,000); provided, however, that it may own and invest not more than twenty-five per cent (25%) of its capital, surplus and contingency funds in the capital stock of one fire and casualty insurance company, provided such investment gives it a majority of the outstanding stock of such fire and casualty insurance company. As amended Acts 1963, 58th Leg., p. 967, ch. 389, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

PART II. AUTHORIZED LOANS

A. ANY OF ITS FUNDS ACCUMULATIONS

8. Insurance requirements.

If any part of the value of buildings is required to be included in the value of such real estate to attain the minimum authorized value of the security, such buildings shall be insured against loss by fire in a company authorized to transact business in the state in which such real estate is located, or in a company recognized as acceptable for such purpose by the insurance regulatory official of the state in which such real estate is located, which insurance shall be in an amount of at least fifty per cent (50%) of the value of such buildings; provided, that the insurance coverage need not exceed the outstanding balance owed to the lending company when the outstanding balance falls below fifty per cent (50%) of the value of the buildings. The loss clause shall be payable to such company. As amended Acts 1963, 58th Leg., p. 432, ch. 151, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

SUBCHAPTER D. POLICIES AND BENEFICIARIES

Art. 3.42. Policy Form Approval

Texas 65 health insurance plans, see art. 3.71.

Art. 3.44. Policies Shall Contain Certain Provisions

3. That the policy, or policy and application, shall constitute the entire contract between the parties and shall be incontestable after it has been in force during the lifetime of the insured for two (2) years from its date, except for non-payment of premiums, and which provisions may, at the option of the company, contain an exception for violation of the conditions of the policy relating to naval and military service in time of war. As amended Acts 1963, 58th Leg., p. 1307, ch. 498, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

7. Provisions for non-forfeiture benefits in the event of default in premium payments and for cash surrender values in accordance with the provisions of this Section 7 and Section 8 of this Article 3.44 in the case of policies issued prior to the operative date of Article 3.44a (the Standard Non-forfeiture Law), and in accordance with provisions of Article 3.44a in the case of policies issued on or after said date. Policies issued prior to the operative date of Article 3.44a shall contain a provision substantially as follows: a provision which, in the event of default in the premium payments after premiums shall have been paid for three (3) full years, shall secure a stipulated form of insurance on the life of the Insured, the net value of which shall be equal to the reserve (exclusive of any reserve for disability or accidental death benefits) at the date of default on the policy, and on any dividend additions thereto, according to the mortality table, rate of interest and method adopted for computing such reserve, less a sum of not more than two and one-half per cent (2½%) of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy; provided, however, that if the mortality table adopted for computing such reserve is either the American Men Ultimate Table of Mortality or the Commissioners 1941 Standard Ordinary Mortality Table, then in calculating the value of paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than one hundred thirty per cent (130%) of the rate of mortality according to such adopted table or, in case of sub-standard policies, the adopted multiple thereof; provided further, that if the mortality table adopted for computing such reserve is the Commissioners 1958 Standard Ordinary Mortality Table, then in calculating the value of paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than that shown in the Commissioners 1958 Extended Term Insurance Table, or, in case of sub-standard policies, the adopted multiple thereof; and provided further as respects policies on female risks, other than policies of industrial insurance, the net value of any such stipulated form of insurance may be calculated according to an age not more than three (3) years younger than the actual age of the Insured, provided the same age differential has been used in computing the policy reserves under such policies. The policy shall state: (1) the amount and term of the stipulated form of insurance calculated upon the assumption of no indebtedness on the policy and no dividend additions

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thereto; and (2) the method, rate of interest, and mortality table (including any age differential applicable in making such computations on policies issued to female risks) for computing the policy reserve, which must be such as may be authorized by law for use in computing the reserve liability of the company on such policy. Such provision shall also stipulate that the policy may be surrendered to the company at its home office within one month from the due date of any premium for its cash value, which shall be specified in the policy and which shall be at least equal to the sum which would otherwise be available for the purchase of insurance, as aforesaid, but not more than the reserve on the policy, and may stipulate that the company may defer payment for not more than six (6) months after application therefor is made. This provision shall not be required in term insurance. As amended Acts 1963, 58th Leg., p. 1117, ch. 434, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

8. In the case of policies issued prior to the operative date of Article 3.44a, a table showing in figures the cash values, and the options available under the policy each year, upon default in premium payments during the first twenty (20) years of the policy or the period during which premiums are payable, beginning with the year in which such values and options become available. As amended Acts 1963, 58th Leg., p. 1717, ch. 434, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

12. In all family group life insurance policies there shall be clearly stated the maximum amount which is payable to the payee in the policy in the case of the death of any insured person or persons. Regardless of what the maximum amount of said policy is or may be, any provision for payment other than the full amount of said policy shall be clearly stated in the policy. As amended Acts 1963, 58th Leg., p. 328, ch. 123, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 3.44a. Standard Non-forfeiture Law

Title

Section 1. This Article shall be known as the Standard Non-forfeiture Law.

Default in premium payment on policies issued after operative date of Standard Non-forfeiture Law; paid-up non-forfeiture benefits and cash surrender values; mortality tables and interest rates

Sec. 2. In the case of policies issued on or after the operative date of this Article (as defined in Section 10 of this Article), no policy of life insurance, except as stated in Section 9, shall be issued or delivered in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the State Board of Insurance are at least as favorable to the defaulting or surrendering policyholder:

(1) That, in the event of default in any premium payment, the company will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up non-forfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

(2) That, upon surrender of the policy within sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance or five (5) full years in the case of industrial insurance, the company will pay, in lieu of any paid-up non-forfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(3) That a specified paid-up non-forfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty (60) days after the due date of the premium in default.

(4) That, if the policy shall have become paid-up by completion of all premium payments or if it is continued under any paid-up non-forfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(5) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up non-forfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up non-forfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(6) A statement that the cash surrender values and the paid-up non-forfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up non-forfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the State in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up non-forfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The company shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy.

Amount of cash surrender value available under policy on default in premium payment due on policy anniversary

Sec. 3. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by Section 2, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, in-

cluding any existing paid-up additions, if there had been no default, over the sum of (a) the then present value of the adjusted premiums as defined in Sections 5, 6 and 7, corresponding to premiums which would have fallen due on and after such anniversary, and (b) the amount of any indebtedness to the company on the policy. The preceding sentence shall not require any cash surrender value greater than the reserve for the policy calculated as provided by Article 3.28. Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up non-forfeiture benefit, whether or not required by Section 2, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by an indebtedness to the company on the policy.

**Value of paid-up non-forfeiture benefits available under policy on
default in premium payment due on policy anniversary**

Sec. 4. Any paid-up non-forfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this Article in the absence of the condition that premiums shall have been paid for at least a specified period.

Adjusted premiums

Sec. 5. Except as provided in the third paragraph of this Section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) two per cent (2%) of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty per cent (40%) of the adjusted premium for the first policy year; (iv) twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. Provided, however, that in applying the percentages specified in (iii) and (iv) above, no adjusted premium shall be deemed to exceed four per cent (4%) of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this Section shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this Section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under

age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in the first two paragraphs of this Section except that, for the purposes of (ii), (iii) and (iv) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Except as otherwise provided in Sections 6 and 7, all adjusted premiums and present values referred to in this Article shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up non-forfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a non-forfeiture benefit, the rates of mortality assumed may be not more than one hundred and thirty per cent (130%) of the rates of mortality according to such applicable table. Provided further, that for insurance issued on a sub-standard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the Company and approved by the State Board of Insurance.

Calculation of adjusted premiums and present values of ordinary policies issued on or after operative date of this section

Sec. 6. In the case of ordinary policies issued on or after the operative date of this Section as defined herein, all adjusted premiums and present values referred to in this Article shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest, not exceeding three and one-half per cent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up non-forfeiture benefits, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a non-forfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table. Provided further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as

may be specified by the company and approved by the State Board of Insurance.

On or after the operative date of this Article, any company may file with the State Board of Insurance a written notice of its election to comply with the provisions of this Section after a specified date before January 1, 1974. After the filing of such notice, then upon such specified date (which shall be the operative date of this Section for such company), this Section shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this Section for such company shall be January 1, 1974.

Industrial policies; adjusted premiums and present values

Sec. 7. In the case of industrial policies issued on or after the operative date of this Section as defined herein, all adjusted premiums and present values referred to in this Article shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest, not exceeding three and one-half per cent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up non-forfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a non-forfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. Provided further, that for insurance issued on a sub-standard basis, the calculations of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the State Board of Insurance.

On or after the operative date of this Article, any company may file with the State Board of Insurance a written notice of its election to comply with the provisions of this Section after a specified date before January 1, 1974. After the filing of such notice, then upon such specified date (which shall be the operative date of this Section for such company), this Section shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this Section for such company shall be January 1, 1974.

Cash surrender values and paid-up non-forfeiture benefits on default in premium payment due at time other than on policy anniversary

Sec. 8. Any cash surrender value and any paid-up non-forfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary; provided, however, such cash surrender value or non-forfeiture benefit shall not be required unless such cash surrender value or non-forfeiture benefit was required on the preceding policy anniversary. All values referred to in Sections 3, 4, 5, 6 and 7 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall not be less than the dividends used to provide such additions. Notwithstanding the provisions of Section 3, additional benefits payable (a) in the event of death or dismemberment by accident or accidental means, (b) in the event of total and permanent disability, (c) as reversionary annuity or deferred reversionary annuity benefits, (d) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this Article would not apply, (e) as term insurance on the

life of a child or on the lives of children provided in a policy on the life of a parent of the child if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child, and (f) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and non-forfeiture benefits required by this Article, and no such additional benefits shall be required to be included in any paid-up non-forfeiture benefits.

Application of article

Sec. 9. This Article shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in Sections 5, 6 and 7, is less than the adjusted premium so calculated, on such twenty year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.

Notice of election to comply with provisions of Standard Non-forfeiture Law

Sec. 10. After the effective date of this Act, any company may file with the State Board of Insurance a written notice of its election to comply with the provisions of this Article after a specified date before January 1, 1974. After the filing of such notice, then upon such specified date (which shall be the operative date of Article 3.44a for such company), this Article shall become operative with respect to the policies thereafter issued by such company. If a company makes no such election, the operative date of this Article for such company shall be January 1, 1974. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 3.44a added Acts 1963, 58th Leg., p. 1117, ch. 434, § 5.

Effective 90 days after May 24, 1963, date of adjournment.

Industrial life insurance, policy provisions, see art. 3.52, § 2.

Dividends, payment, see art. 3.11.

Standard valuation law, see art. 3.23.

Art. 3.46. Level Premium Policies

No level premium policy of life insurance shall be issued or sold by any company in this state which provides for more than one year preliminary term insurance. The provisions of this Article shall not apply to policies and contracts issued on or after the operative date of Article 3.44a (the Standard Non-forfeiture Law). As amended Acts 1963, 58th Leg., p. 1117, ch. 434, § 6.

Effective 90 days after May 24, 1963, date of adjournment.

Standard non-forfeiture law, see art. 3.44a.

SUBCHAPTER E. GROUP INDUSTRIAL AND CREDIT INSURANCE

Art. 3.50. Group Life Insurance

Sec. 3. Group Policies Unlawful Except as Authorized.—Except as may be provided in this Article, it shall be unlawful to make a contract of life insurance covering a group in this state, and the license to do busi-

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ness in Texas of any company making a contract of life insurance covering a group in this state except as may be provided in this Article may be forfeited by a suit brought for that purpose by the Attorney General of the State of Texas at the request of the State Board of Insurance. As amended Acts 1963, 58th Leg., p. 1117, ch. 434, § 8.

Effective 90 days after May 24, 1963, date of adjournment.

Secs. 4, 5. Repealed. Acts 1963, 58th Leg., p. 1117, ch. 434, § 7. Eff. 90 days after May 24, 1963, date of adjournment.

See, now, the Standard valuation law, art. 3.28.

For provisions relating to group life policies, see section 3 of this article.

Credit insurance issued under authority of this article as subject to the provisions of article 3.53, as amended in 1963, see, note under art. 3.53.

Standard valuation law, see art. 3.28.

Saved From Repeal

Acts 1963, 58th Leg., p. 981, ch. 405, which amended article 3.53, relating to credit life insurance and credit accident and health insurance, provided in section 2 that the act should not repeal or broaden the provisions of this article and that the provisions of this article should remain in full force and effect after the effective date of the act, but that all credit insurance written under the authority of this article should be subject to the provisions of the act after its effective date.

Art. 3.51—1. Payment of group insurance premiums by cities, towns or villages

Any incorporated city, town or village in the State of Texas which is authorized by law to procure a contract insuring its respective employees or any class or classes thereof under a policy or policies of group insurance covering one or more risks may pay all or any portion of the premiums on such policy or policies from the local funds of such city, town or village. This Article shall not apply to premiums applicable to any policy or portion thereof insuring the dependents of such employees. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 3.51—1 added Acts 1963, 58th Leg., p. 323, ch. 121, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

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(c). A provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for two (2) years from its date, except for non-payment 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. As amended Acts 1963, 58th Leg., p. 1307, ch. 498, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

(e) Provisions for non-forfeiture benefits in event of default in premium payments and for cash surrender values in accordance with the pro-

visions of subsections (e), (f) and (g) of this Section in the case of policies issued prior to the operative date of Article 3.44a (the Standard Non-forfeiture Law), and in accordance with provisions of Article 3.44a in the case of policies issued on or after said date. Policies issued prior to the operative date of Article 3.44a shall contain a provision substantially as follows: 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 per cent ($2\frac{1}{2}\%$) 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 per cent ($2\frac{1}{2}\%$) 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.

If the mortality table adopted for computing such reserve is the 1941 Standard Industrial Mortality Table or the 1941 Sub-standard Industrial Mortality Table, then in calculating the value of the paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than one hundred thirty per cent (130%) of the rate of mortality according to the table used. If the mortality table adopted for computing such reserve is the Commissioners 1961 Standard Industrial Mortality Table, then in calculating the value of paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than that shown in the Commissioners 1961 Industrial Extended Term Insurance Table, or, in the case of sub-standard policies, such other table of mortality as may be specified by the company and approved by the State Board of Insurance. The policy shall state the amount and term of the stipulated form of insurance calculated upon the assumption of no indebtedness on the policy and no dividend additions thereto.

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. As amended Acts 1963, 58th Leg., p. 1117, ch. 434, § 9.

(f) In the case of policies issued prior to the operative date of Article 3.44a, a provision specifying the mortality table, rate of interest, and method of valuation if other than net level premium, adopted for computing

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the life insurance reserves on the contract. As amended Acts 1963, 58th Leg., p. 1117, ch. 434, § 9.

(g) In the case of policies issued prior to the operative date of Article 3.44a, a table showing in figures the non-forfeiture 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. As amended Acts 1963, 58th Leg., p. 1117, ch. 434, § 9.

Effective 90 days after May 24, 1963, date of adjournment.

Policies to contain certain provisions, see art. 3.44.

Art. 3.53. Credit Life Insurance and Credit Accident and Health Insurance.

Sec. 1. Purpose.—The purpose of this Act is to promote the public welfare by regulating credit life insurance and credit accident and health insurance. Nothing in this Act is intended to prohibit or discourage reasonable competition. The provisions of this Act shall be liberally construed.

Sec. 2. Scope and Definitions.—A. Citation and Scope.

(1) This Act may be cited as “The Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance.”

(2) All life insurance and all accident and health insurance sold in connection with loans or other credit transactions of less than five (5) years duration, the premium for which is charged to or paid for in whole or in part either directly or indirectly by the debtor, shall be subject to the provisions of this Act, regardless of the nature, type or plan of the credit insurance coverage or premium payment system, except where the issuance of such insurance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

B. Definitions.

For the purpose of this Act:

(1) “Credit life insurance” means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction;

(2) “Credit accident and health insurance” means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy;

(3) “Creditor” means the lender of money or vendor or lessor of goods, services, or property, rights or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor, or lessor, and an affiliate, associate, or subsidiary of any of them or any director, officer or employee of any of them or any other person in anyway associated with any of them;

(4) “Debtor” means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction;

(5) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction;

(6) "Commissioner" means The Commissioner of Insurance;

(7) "State Board of Insurance" means the three (3) member State Board of Insurance.

Sec. 3. Forms of Credit Life Insurance and Credit Accident and Health Insurance.—Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

A. Individual policies of life insurance issued to debtors on the term plan;

B. Individual policies of accident and health insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance;

C. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;

D. Group policies of accident and health insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

Sec. 4. Amount of Credit Life Insurance and Credit Accident and Health Insurance.—A. Credit Life Insurance.

(1) The initial amount of credit life insurance on any debtor shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.

B. Credit Accident and Health Insurance.

The total amount of indemnity payable by credit accident and health insurance in the event of disability as defined in the policy on any debtor, shall not exceed the total amount repayable under the contract of indebtedness and the amount of each periodic indemnity payment shall not exceed the scheduled periodic installment payment on the indebtedness.

Sec. 5. Term of Credit Life Insurance and Credit Accident and Health Insurance.—The term of any credit life insurance or credit accident and health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy or the date of enrollment for coverage under the group policy, whichever is later. Where evidence of insurability is required and such evidence is furnished more than thirty (30) days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. The term of such insurance shall not extend more than fifteen (15) days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in Section 8.

Sec. 6. Provisions of Policies and Certificates of Insurance; Disclosure to Debtors.—A. All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.

B. Each individual policy or group certificate of credit life insurance, and/or credit accident and health insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor and, in the case of a certificate under a group policy, the identity by name or otherwise of the person or persons insured, the full amount of premium or the total identifiable insurance charge, if any, to the debtor, separately for credit life insurance and credit accident and health insurance, a description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

C. Said individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.

D. If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the full amount of premium or the total identifiable insurance charge, if any, to the debtor, separately for credit life insurance and credit accident and health insurance, the amount, term and a brief description of the coverage provided, shall be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this Subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within thirty (30) days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in Section 5.

E. If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance an appropriate refund shall be made.

Sec. 7. Filing, Approval and Withdrawal of Forms.—A. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and the schedules of premium rates pertaining thereto shall be filed with the Commissioner.

B. The Commissioner shall within thirty (30) days after the filing of any such policies, certificates of insurance, notices of proposed insur-

ance, applications for insurance, endorsements and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the Insurance Code or of any rule or regulation promulgated hereunder.

C. If the Commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the Commissioner shall specify the reason for his disapproval and state that a hearing will be granted within twenty (20) days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement or rider, shall be issued or used until the expiration of thirty (30) days after it has been so filed, unless the Commissioner shall give his prior written approval thereto.

D. The Commissioner may, at any time after a hearing held not less than twenty (20) days after written notice to the insurer, withdraw his approval of any such form on any ground set forth in Subsection B above. The written notice of such hearing shall state the reason for the proposed withdrawal.

E. It shall not be lawful for the insurer to issue such forms or use them after the effective date of such withdrawal.

F. If a group policy of credit life insurance or credit accident and health insurance

(i) has been delivered in this State before the effective date of this Act, or

(ii) has been or is delivered in another State before or after the effective date of this Act,

the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in Subsection B of Section 6 of this Act and such certificate shall be approved by the Commissioner if it conforms with the requirements specified in said Subsection and if the schedule of premium rates applicable to the insurance evidenced by such certificate or notice is not in excess of the insurer's schedule of premium rates filed with the Commissioner; provided, however, the premium rate in effect on existing group policies may be continued until the first policy anniversary date following the date this Act becomes operative as provided in Section 12.

G. Any order or final determination of the Commissioner under the provisions of this Section shall be subject to the appeal and review provisions of Article 1.04, Insurance Code of Texas.

Sec. 8. Premiums and Refunds.—A. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the Commissioner. No insurer shall issue any credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the Commissioner.

B. Each individual policy, or group policy and group certificate shall provide that in the event of termination of the indebtedness or the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by or charged to the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however,

no refund need be made if the amount thereof is less than One Dollar (\$1). The formula to be used in computing such refund shall be filed with and approved by the Commissioner.

C. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

D. The amount charged to a debtor by the creditor for any credit life or credit accident and health insurance issued to the debtor shall not exceed the actual premium charged the creditor by the insurer for such insurance, as computed at the time the charge to the debtor is determined.

Sec. 9. Issuance of policies.—All policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this State only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses issued by the Commissioner. The premium or cost of such insurance allowed herein shall not be deemed interest, or charges, or consideration, or an amount in excess of permitted charges in connection with the loan or other credit transaction, and any benefit or return or other gain or advantage to the creditor arising out of the sale or provision of such insurance shall not be deemed a violation of any law, General or Special, of the State of Texas.

Sec. 10. Claims.—A. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

B. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

C. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in settling or adjusting claims; provided, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

Sec. 11. Existing Insurance—Choice of Insurer.—When credit life insurance or credit accident and health insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this State.

Sec. 12. Enforcement.—The State Board of Insurance may, after notice and hearing, issue such rules and regulations as it deems appropriate for the supervision of this Act. Whenever the Commissioner finds that there has been a violation of this Act or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the Commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the Commissioner on the date speci-

filed unless sooner withdrawn by the Commissioner or a review thereof and appeal therefrom has been taken to the State Board of Insurance or the Courts under Article 1.04, Insurance Code of Texas. The provisions of Sections 5, 6, 7 and 8 of this Act shall not be operative until ninety (90) days after the effective date of this Act, and the Commissioner in his discretion may extend by not more than an additional ninety (90) days the initial period within which the provisions of said Sections shall not be operative.

Sec. 13. Judicial Review.—Any party to any proceeding affected by an order of the Commissioner or the State Board of Insurance shall be entitled to judicial review by following the procedure set forth in Article 1.04, Insurance Code of Texas.

Sec. 14. Penalties.—In addition to any other penalty provided by law, any person, firm or corporation which violates an order of the Commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of Texas a sum not to exceed Two Hundred and Fifty Dollars (\$250) which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed One Thousand Dollars (\$1,000). The Commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, firm or corporation guilty of such violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in Section 13 of this Act. As amended Acts 1963, 58th Leg., p. 981, ch. 405.

Effective 90 days after May 24, 1963, date of adjournment.

Section 2 of the 1963 amendatory act provided:

"Sec. 2. Saving Clause. The provisions of this Act shall be cumulative of, supplemental and in addition to the provisions of Senate Bill 15, as passed by the Fifty-eighth Legislature, Regular Session, 1963, entitled 'Texas Regulatory Loan Act,' and the provisions of this Act shall not in any manner repeal, amend or modify said Senate Bill 15, nor shall it be so construed, but to the contrary, this Act shall be so construed as to be consistent with the provisions of said Senate Bill 15.

"Further, the provisions of this Act shall not repeal or broaden the provisions of Article 3.50, Texas Insurance Code, as amended, and the provisions of such Article 3.50 shall remain in full force and effect after the effective date hereof, but all credit insurance written under the authority of said Article 3.50 shall be subject to the provisions of this Act after the effective date hereof."

Texas Regulatory Loan Act, credit life insurance and credit health and accident insurance on borrower, see Vernon's Ann. Civ.St. art. 6165b, § 18.

SUBCHAPTER G. ACCIDENT AND SICKNESS INSURANCE

Art. 3.71. Texas 65 Health Insurance Plans

Section 1. Notwithstanding any contrary or inconsistent provision of any law, two or more insurance companies authorized to separately do such an insurance business in this state, including stock companies, reciprocals or inter-insurance exchanges, Lloyds' associations, fraternal benefit societies and mutual companies of all kinds, including state-wide mutual assessment corporations and local mutual aid associations, and stipulated premium companies, may join together to offer, sell and administer hospital, surgical and medical expense insurance plans under a group policy covering residents of this state who are 65 years of age and older and their spouses on which policy each insurance carrier shall be severally liable, and such companies may agree with respect to premium rates, policy provisions, sales, administrative, technical and accounting procedures and other matters within the scope of this Article. Any such

policy may be executed on behalf of the insurance companies by a duly authorized person and need not be countersigned on behalf of any such company by a resident agent.

Companies regulated by the provisions of Chapter 14 of this Insurance Code shall, if participating under this provision of this Act, be required to form separate unincorporated associations, trusts or other organizations as authorized by this Act, and such separate unincorporated association, trust or other organization shall not include any other type of insurance company therein.

Sec. 2. The insurance companies participating in the insurance plans authorized by this Article shall be subject to regulation under the laws of this state, and the forms of the applications, certificates, policies and other evidence of such insurance shall be subject to the requirements of Article 3.42 of this Insurance Code. There shall be filed with the State Board of Insurance by or on behalf of such companies a true copy of any contract of association or organization or trust agreement entered into by such companies pursuant to this Article, the schedule of premium rates to be charged for the insurance, and the plan for operating and marketing such insurance. No such contract, schedule or plan shall be effective unless and until approved by the State Board of Insurance, provided, however, that at the expiration of thirty days after the filing of any such contract, schedule or plan, it shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by written order of said Board. If after notice and public hearing the said Board shall at any time find that under reasonable assumptions the premium rates charged for such insurance, or the plan for operating and marketing same are excessive, inadequate or contrary to the public interest, or that any activity or practice in connection with such insurance is unfair, unreasonable or contrary to the public interest, it shall disapprove such premium rates or plan or such activity or practice and shall require the discontinuance thereof within not less than thirty days from the date of its order containing such finding.

Sec. 3. Any unincorporated association, trust or other organization formed under the authority of this Article may sue and be sued in its association, trust or organization name. Process in any civil suit against any such association, trust or organization may be served on the president, secretary or managing agent thereof or on the Chairman of the State Board of Insurance. Such service shall have the same force and effect as if such service had been made upon all members of the association, trust or other organization. In the event of such service on the Chairman of the State Board of Insurance he shall immediately forward the same by registered mail, postage prepaid, to the president, secretary or managing agent of such association, trust or other organization at the last known address thereof according to the records of the State Board of Insurance.

Sec. 4. Notwithstanding any contrary or inconsistent provision of any law of this state, all premiums received on account of the group insurance authorized by this Article are hereby expressly exempted and excluded from any and all premium taxes of any kind imposed by any other law of this state.

Sec. 5. No association, trust or other organization formed and operated in accordance with this Article and no insurance business conducted in accordance with this Article shall be deemed to be a combination in restraint of trade, or an illegal monopoly, or an attempt to lessen compe-

tion or fix prices arbitrarily or to otherwise violate the anti-trust laws of this state. Acts 1951, 52nd Leg., p. 868, ch. 491; art. 3.71 added Acts 1963, 58th Leg., p. 443, ch. 157, § 1.

Effective 90 days after May 24, 1963, date of adjournment. Policy form approval, see art. 3.42.

CHAPTER FOUR—TAXES AND FEES

Art.

4.08 Unclaimed Funds Statute for Life Insurance Companies [New].

Art. 4.08. Unclaimed Funds Statute for Life Insurance Companies

Sec. 1. Title.—This Article shall be known as the “Unclaimed Funds Statute for Life Insurance Companies.”

Sec. 2. Scope.—This Article shall apply to unclaimed funds, as defined in Section 3 hereof, of any life insurance company doing business in this state where the last known address, according to the records of such company, of the person entitled to such funds is within this state, provided that if a person other than the insured or annuitant be entitled to such funds and no address of such person be known to such company or if it be not definite and certain from the records of such company what person is entitled to such funds, then in either event it shall be presumed for the purposes of this Article that the last known address of the person entitled to such funds is the same as the last known address of the insured or annuitant according to the records of such company.

Sec. 3. Definitions.—The term “unclaimed funds” as used in this Article shall mean and include all monies held and owing by any life insurance company doing business in this state which shall have remained unclaimed and unpaid for seven years or more after it is established from the records of such company that such monies became due and payable under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the prior death of the insured shall be deemed to be matured and the proceeds thereof shall be deemed to be “due and payable” within the meaning of this Article only if such policy is in force when the insured shall have attained the limiting age under the mortality table on which the reserve is based. Annuities and other obligations, the payment of which is conditioned upon the continued life of any person, shall not be deemed to be “due and payable” in the absence of actual proof that such person was alive at the time or times required by the contract. Monies otherwise admittedly due and payable under any such life or endowment insurance policy or annuity contract shall be deemed to be “held and owing” within the meaning of this Article although the policy or contract shall not have been surrendered as required.

Sec. 4. Reports.—Every such life insurance company shall on or before the first day of May of each year make a report in writing to the State Treasurer of Texas of all unclaimed funds, as hereinbefore defined, held and owing by it on the 31st day of December next preceding, provided, however, such report shall not be required to include amounts of less than Five Dollars (\$5.00) which on the effective date of this Article shall have been unclaimed and unpaid for more than eleven years, or amounts which have been paid to another state or jurisdiction under any escheat or unclaimed funds law thereof. Such report shall be signed and sworn to by an officer of such company and shall set forth: (1) in alphabetical order

the full name of the insured or annuitant, his last known address according to the company's records, and the policy or contract number; (2) the amount appearing from the company's records to be due on such policy or contract; (3) the date such unclaimed funds became payable; (4) the name and last known address of each beneficiary or other person who, according to the company's records, may have an interest in such unclaimed funds; and (5) such other identifying information as the State Treasurer may require; provided, however, that amounts of less than Ten Dollars (\$10.00) each may be reported in the aggregate without furnishing any of the information required in Clauses (1), (2), (3), (4), and (5) of this Section.

Sec. 5. Notice; Publication.

(a) On or before the first day of September following the making of such reports under Section 4, the State Treasurer shall cause to be published notices based on the information contained in such reports and entitled: "NOTICE OF CERTAIN UNCLAIMED FUNDS HELD AND OWING BY LIFE INSURANCE COMPANIES." Such a notice shall be published once in a newspaper published or having a general circulation in each county of this state in which is located the last known address of a person appearing to be entitled to such funds.

(b) Each such notice shall set forth in alphabetical order the names of the insureds or annuitants under policies or contracts where the last known address of the person appearing to be entitled to such funds is in the county of publication or general circulation, together with: (1) the amount reported due and the date it became payable; (2) the name and last known address of each beneficiary of other person who, according to the company's reports, may have an interest in such unclaimed funds; and (3) the name and address of the company. The notice shall also state that such unclaimed funds will be paid by the company to persons establishing to its satisfaction before the following December 1st their right to receive the same, and that not later than the following December 20th such unclaimed funds still remaining will be paid to the State Treasurer who shall thereafter be liable for the payment thereof.

(c) It shall not be obligatory upon the State Treasurer to publish any item of less than Fifty Dollars (\$50) in such notice, unless the State Treasurer deems such publication to be in the public interest. The expenses of publication shall be charged against the special trust fund provided for in Section 9.

Sec. 6. Payment to State Treasurer.—All unclaimed funds contained in the report required to be filed by Section 4 of this Article, excepting those which have ceased to be unclaimed funds, shall be paid over to the State Treasurer on or before the following December 20th.

The State Treasurer shall have the power, for cause shown, to extend for a period of not more than one year the time within which a life insurance company shall file any report and in such event the time for publication and payment required by this Article shall be extended for a like period.

Sec. 7. Custody of Unclaimed Funds in State; Insurers Indemnified.—Upon the payment of such unclaimed funds to the State Treasurer the state shall assume, for the benefit of those entitled to receive the same and for the safety of the money so paid; the custody of such unclaimed funds, and the life insurance company making such payment shall immediately and thereafter be relieved of and held harmless by the state from any and all liability for any claim or claims which exist at such time with

reference to such unclaimed funds or which thereafter may be made or may come into existence on account of or in respect to any such unclaimed funds.

Sec. 8. Reimbursement for Claims Paid by Insurers.

(a) Any life insurance company which has paid monies to the State Treasurer pursuant to the provisions of this Article may make payment to any person appearing to such company to be entitled thereto and upon proof of such payment the State Treasurer shall forthwith reimburse such company for such payment.

(b) In the event legal proceedings are instituted by any other state, in this state or in any other state or federal court with respect to any of the unclaimed funds paid to the State Treasurer, the life insurance company making the payment shall notify the State Treasurer and the Attorney General of this state of such proceedings and the Attorney General may, in his discretion, intervene therein. If after the life insurance company making the payment has actively defended in such proceedings, or has been notified in writing by the Attorney General that no defense need be made in respect to such funds, a judgment is entered against such life insurance company for any amount paid to the State Treasurer under this Article (including any increment to the amount so paid resulting from the differential in time at which payments are made to this state and the other state involved), the State Treasurer shall, upon being furnished proof of payment in satisfaction of said judgment, immediately reimburse the life insurance company the amount so paid in satisfaction of the judgment. The State Treasurer shall also immediately reimburse the life insurance company for any legal fees, costs and other expenses incurred in such legal proceedings.

(c) If, as to any claim for reimbursement made under this Section 8, the State Treasurer shall fail to make reimbursement within ninety days after the making of such claim, or if he shall notify the life insurance company prior to the expiration of the ninety days of his refusal to make reimbursement, the life insurance company making such claim for reimbursement may institute suit therefor in a court of competent jurisdiction in Travis County, Texas, naming the State Treasurer as defendant, and such court shall have jurisdiction of any such action to recover any amount for which the right to reimbursement is herein provided. Any action hereunder must be brought within one hundred eighty days after the making of a claim for reimbursement against the State Treasurer.

(d) The rights to reimbursement set forth in, and provided by, this Section shall be the obligation of the State of Texas and any amounts recoverable under this Section 8, whether or not due under any judgment against the State Treasurer, shall be paid from the special trust fund established by this Act, or if the special trust fund is insufficient from the general funds of the State of Texas.

Sec. 9. Special Trust Fund; Administration.—Upon receipt of any unclaimed funds from such life insurance companies by the State Treasurer, he shall pay forthwith three-fourths of the amount thereof into the general funds of the state for the use of the state. The remaining one-fourth shall be administered by him as a special trust fund for the purposes of this Article, and deposited in the manner provided by law for the deposit of said funds. At the end of each calendar year, any unclaimed funds which shall have been a part of such special trust fund for a period of seven years or more shall be paid into the general funds of the state for

the use of the state, provided that the special trust fund shall never be so reduced to less than One Hundred Thousand Dollars (\$100,000.00).

Sec. 10. **Determination and Review of Claims.**—Any person claiming to be entitled to unclaimed funds paid to the State Treasurer may file a claim at any time with such official. The State Treasurer shall possess full and complete authority to accept or reject any such claim. If he rejects such claim or fails to act thereon within ninety days after receipt of such claim, the claimant may institute suit therefor in a court of competent jurisdiction naming the State Treasurer as defendant.

Sec. 11. **Payment of allowed Claims.**—Any claim which is accepted by the State Treasurer or ordered to be paid by him by a court of competent jurisdiction shall be paid out of the special trust fund in his custody, or in the event such special trust fund shall be insufficient, out of the general funds of the state.

Sec. 12. **Records Required.**—The State Treasurer shall keep in his office a public record of each payment of unclaimed funds received by him from any life insurance company. Except as to amounts reported in the aggregate, such record shall show in alphabetical order the name and last known address of each insured or annuitant, and of each beneficiary or other person who, according to the company's reports, may have an interest in such unclaimed funds, and with respect to each policy or contract, its number, the name of the company, and the amount due.

Sec. 13. **Other Acts Not Applicable.**—No other Statute of this state relating to escheat or unclaimed funds now in force shall apply to life insurance companies, nor shall any such Statute hereafter enacted so apply unless specifically made applicable by its terms; provided that Article 3272a, House Bill No. 5, Acts of the 57th Legislature, First Called Session, shall be in force as to personal property subject to escheat reported or required to be reported by January 6, 1962, under the terms of said Act and the provisions of Section 8 hereof shall be applicable in such cases.

Sec. 14. **Penalty.**—Any person who wilfully fails to file a report required by this Article, or who violates any of the other terms and provisions of this Article shall be punished by a fine not less than Five Hundred Dollars (\$500.00), nor more than One Thousand Dollars (\$1000.00), or by confinement for not more than six months in the county jail, or both, and in addition, shall be subject to civil penalties of not exceeding One Hundred Dollars (\$100.00) for each day of such wilful failure or refusal, said civil penalties to be collected by suit in a District Court of Travis County, Texas, by the Attorney General in the name of the State of Texas. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 4.08 added Acts 1963, 58th Leg., p. 865, ch. 333, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Personal property subject to escheat, see Vernon's Ann.Civ.St. art. 3272a.

Application to Life Insurance Companies

Acts 1963, 58th Leg., p. 865, ch. 333, The Unclaimed Funds Statute for Life Insurance Companies, incorporated in the Insurance Code as article 4.08, provides in section 13 of the article that no other statute relating to escheat shall apply to life insurance companies; provided that this article shall be in force as to personal property subject to escheat reported or required to be reported by January 6, 1962 and that the provisions of section 8 of article 4.08 shall be applicable in such cases.

CHAPTER FIVE—RATING AND POLICY FORMS

Art. 5.25. Board Shall Fix Rates

Condominium regime, insurance and use of proceeds, see Vernon's Ann.Civ.St. art. 1301a, §§ 19-21.

Art. 5.35. Uniform Policies

Condominium regime, insurance and use of proceeds, see Vernon's Ann.Civ.St. art. 1301a, §§ 19-21.

Art. 5.38. Co-insurance Clauses

Condominium regime, insurance and use of proceeds, see Vernon's Ann.Civ.St. art. 1301a, §§ 19-21.

CHAPTER SIX—FIRE AND MARINE COMPANIES

Art. 6.01. Board Shall Calculate Reserve on Fire Insurance

Reserves on credit guaranty insurance, see art. 1.26.

Arts. 6.09, 6.10. Repealed. Acts 1963, 58th Leg., p. 976, ch. 399, § 1.
Eff. 90 days after May 24, 1963, date of adjournment

Art. 6.13. Policy a Liquidated Demand

Condominium regime, insurance and use of proceeds, see Vernon's Ann.Civ.St. art. 1301a, §§ 19-21.

Art. 6.15. Interest of Mortgagee or Trustee

Condominium regime, insurance and use of proceeds, see Vernon's Ann.Civ.St. art. 1301a, §§ 19-21.

CHAPTER ELEVEN—MUTUAL LIFE INSURANCE COMPANIES

Art. 11.09. Repealed. Acts 1963, 58th Leg., p. 1117, ch. 434, § 10. Eff.
90 days after May 24, 1963, date of adjournment

See, now, the standard valuation law, art. 3.28.

Art. 11.19. Other Laws to Govern

The provisions of Chapter 3 of this Code, when not in conflict with the Articles of this chapter, shall apply to and govern mutual life insurance companies organized under the provisions of this chapter, provided, however, that when any mutual life insurance company organized under the provisions of this chapter has a surplus equal to or greater than the minimum of capital and surplus required of capital stock companies under the provisions of Article 3.02 of Chapter 3, Insurance Code of the State of Texas, Revised Civil Statutes of Texas of 1925, the following provisions of Chapter 11 only shall apply to such mutual companies: 11.01, 11.02,

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11.03, 11.04, 11.05, 11.06, 11.07, 11.10, 11.11, 11.12, 11.14, 11.16, 11.17, 11.18, and 11.19. On all other matters the provisions of said Chapter 3 shall apply to and govern such mutual life insurance companies. As amended Acts 1963, 58th Leg., p. 1117, ch. 434, § 11.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER THIRTEEN—STATEWIDE MUTUAL ASSESSMENT COMPANIES**Art. 13.06. Corporations Not Complying**

Right of mutual assessment company to amend charter to extend corporate existence, see art. 14.14a.

CHAPTER FOURTEEN—GENERAL PROVISIONS FOR MUTUAL ASSESSMENT COMPANIES

Texas 65 health insurance plans, see art. 3.71.

Art.

14.14a. Validation of Existing Charters;
Right to Amend to Extend Corporate Existence [New]

Art. 14.14a. Validation of Existing Charters; Right to Amend to Extend Corporate Existence

This Article shall apply to every company or association regulated by the provisions of Chapter 14 of the Insurance Code of Texas on the effective date hereof. The charters of all such companies which are actively conducting an insurance business under Chapter 14 of the Insurance Code of Texas on the effective date hereof and which have been issued a permanent certificate of authority from the State Board of Insurance pursuant to Article 1.14 of the Insurance Code of Texas, authorizing such companies to transact an insurance business, are hereby in all things validated. Any such company or association shall have the right to amend its charter for the purpose of extending its period of duration, which may be perpetual, by filing an amendment for such purpose within six (6) months after the effective date of this Article in the same manner as would be done with any other amendment to its charter under existing laws. This Article shall not apply to any company or association which failed to comply with the provisions of Article 13.06 of the Insurance Code of Texas, nor to any company or association which has heretofore voluntarily surrendered its charter, nor to any company or association which has had its charter forfeited or cancelled by a Court of competent jurisdiction, nor to any company or association which has surrendered its certificate of authority and charter to the State Board of Insurance and has had a cessation of corporate existence under the provisions of Chapter 22 of the Insurance Code of the State of Texas. Acts 1951, 52nd Leg., p. 868, ch. 491, art. 14.14a added Acts 1963, 58th Leg., p. 330, ch. 125, § 1.

Emergency. Effective May 9, 1963.

Acts 1963, 58th Leg., p. 330, ch. 125, § 2, provided: "Sec. 2. Precedence of Act in Cases of Conflict. The rights, power, authority, and procedures granted in the foregoing Section of this Act shall be deemed to be in addition to all other rights, authorities and procedures now existing and conferred by the laws of the State of Texas,

and any pre-existing Act which tends to hamper or limit the rights, authorities and procedures granted in this Act shall be deemed to be superseded by the provisions hereof and, to the extent that any other law is in conflict with, or inconsistent with the provisions hereof, the provisions of this Act shall take precedence and be effective."

CHAPTER TWENTY ONE—GENERAL PROVISIONS

Art. 21.09. Resident Agents, Companies Excepted

"Any fire, fire and marine, marine, tornado, rent, accident, casualty, liability, health, elevator, disability, plate glass, burglary, bonding, title, surety, or fidelity insurance company, legally authorized to do business in this State is hereby prohibited from authorizing or allowing any person, agent, firm or corporation that is a nonresident of the State of Texas to issue, or cause to be issued, to sign or countersign, or to deliver, or cause to be delivered, any policy or policies of insurance on property, person or persons located in this State, except through regularly licensed local recording agents of such companies in Texas. 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 maintains an office and a record of such business and the transactions which are involved, who collects premiums on such business and otherwise performs the customary duties of a local recording agent representing an insurance carrier in its relation with the public.

This law shall not apply to property owned by the railroad companies or other common carriers. Upon oath made in writing by any person that he can not procure insurance on property through such agents in Texas it shall be lawful for any insurance company not having an agent in Texas to insure property of any person upon application of said person, upon his filing said oath with the county clerk of the county in which such person resides, and with the Board of Insurance Commissioners.

This Article shall not apply to insurance companies whose general plan of operation does not contemplate the use of local recording agents, and such companies may issue policies signed by any of their other resident licensed agents.

This Article shall not apply to bid bonds issued by any surety company authorized to do business in the State of Texas in connection with any public or private contract. As amended Acts 1963, 58th Leg., p. 69, ch. 47, § 1.

Effective 90 days after May 24, 1963, date that conflict herewith are to that extent hereby repealed; and this Act shall prevail over any conflicting provisions of law."

Section 2 of Acts 1963, 58th Leg., p. 69, ch. 47, provided: "All laws or parts of laws

Art. 21.14. Licensing of Local Recording Agents and Solicitors; Life, Health and Accident Insurance Excepted; Other Exceptions

Sec. 3a. Persons other than licensed local recording agents who may share in profits of local recording agent.—(1) Upon the death of a duly licensed local recording agent who is a member of an agency partnership, the surviving spouse and children, if any, of such deceased partner, or a trust for such surviving spouse and children, may share in the profits of such agency partnership during the lifetime of such surviving spouse or such children, as the case may be, if and as provided by a written partnership agreement, or in the absence of any written agreement, if and as agreed by the surviving partner or partners and the surviving spouse, the trustee, and the legal representative of the surviving child or children.

Such surviving spouse and any such surviving children or trusts shall not be required to qualify as local recording agents to participate in such profits, but shall not do or perform any act of a local recording agent on behalf of such partnership without having qualified as a local recording agent; provided, however, that a duly licensed local recording agent who is a member of an agency partnership may, with the approval of the other members of the partnership, transfer an interest in the agency partnership to his children or a trust for same, and may operate such interest for their use and benefit; and such children or trusts may share in the profits of such agency partnership. Such child or children or trusts shall not be required to qualify as a local recording agent to participate in such profits, but shall not do or perform any act of a local recording agent on behalf of such partnership without having qualified as a local recording agent.

(2) Upon the death of a duly licensed local recording agent, who is not a member of an agency partnership, unless otherwise provided by the last will of such deceased agent, the surviving spouse and children, if any, of such deceased agent, or a trust for such spouse or children, may share in the profits of the continuance of the agency business of said deceased agent, provided such agency business is continued by a duly licensed local recording agent. Said surviving spouse, trusts or children, may participate in such profits during the lifetime of such surviving spouse and said children. Said surviving spouse, trusts or children shall not be required to qualify as local recording agents in order to participate in the profits of such agency, but shall not do or perform any act of a local recording agent in connection with the continuance of such agency business without first having been duly licensed as a local recording agent; provided, however, that a duly licensed local recording agent who is not a member of an agency partnership may transfer an interest in his agency to his children, or a trust for same, and may operate such interest for their use and benefit; and such children may share in the profits of such local recording agency during their lifetime, and during such time shall not be required to qualify as a local recording agent in order to participate in such profits, but shall not do or perform any act of a local recording agent in connection with such agency business without first having been duly licensed as a local recording agent.

(3) Except as provided in Subsections (1) and (2) above, and as may be provided in Section 6a, Article 21.14 of the Texas Insurance Code, no person shall be entitled to perform any act of a local recording agent nor in any way participate as a partner in the profits of any local recording agent, without first having qualified as a duly licensed local recording agent and having successfully passed the examination required by the Texas Insurance Code; provided, however, that all persons, or trusts for any person, that received licenses before March 1, 1963, as silent, inactive or non-active partners, or who are silent, inactive or non-active partners in an agency which was so qualified before such date, shall continue to receive licenses, or renewals thereof, as partners in such agency or in any successor agency, providing: (a) that such persons are members of an agency in which there is at least one partner who has qualified as a duly licensed local recording agent; (b) that such non-active partner or partners do not actively solicit insurance; and (c) that such agency is not a limited partnership. Added Acts 1963, 58th Leg., p. 961, ch. 385, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 21.16. Misrepresentation by Policyholder

Standard non-forfeiture law, see art. 3.-
44a.

Art. 21.28. Liquidation, Rehabilitation, Reorganization or Conservation of Insurers**Sec. 8A. Settlement of claims; abandoned funds; re-opening of receiverships**

Any and all assets other than cash remaining in the receiver's hands after payment of the final dividend may be conveyed, transferred or assigned to the State Insurance Liquidator and his successors in office, to be handled as a trust. The State Insurance Liquidator shall have authority to convey, transfer, and assign any assets, including causes of action, judgments, and claims, and to settle or release causes of action, judgments, claims, and liens on such terms and for such amounts as he deems for the best interest of such trust, whether such assets have heretofore or may hereafter come into his hands. From proceeds derived from any such assets the Liquidator shall defray the costs incident to the sale, settlement, release or other transaction whereby such proceeds are obtained, and deliver the remainder to the Board to be deposited by it in trust in a special account to be maintained with the State Treasurer to be handled, disposed of and used as follows:

An order directing disposition of such funds may be made by a court of competent jurisdiction of Travis County, Texas, upon application of the Liquidator, after notice and hearing. Notice shall be posted on the courthouse door of said court for at least twenty (20) days before a hearing is had on the Liquidator's application, and notice shall be published at least once, and at least ten (10) days prior to the date set for such hearing, in a newspaper of general circulation in Travis County. Such notice shall state the amount of the funds and the receivership from which they were derived. It shall be addressed to all persons having an interest, as claimant or otherwise, in the assets of the particular receivership involved in the application, and shall state generally that a hearing shall be had on the date specified for the purpose of determining the disposition to be made of such funds, including a declaration that such funds are abandoned and the property of the State Board of Insurance.

If the court finds that funds derived from any receivership are sufficient to justify re-opening of the receivership and payment of a dividend, then such may be ordered, but otherwise, if such funds are insufficient for that purpose, the court may declare such funds abandoned and a certified copy of such judgment will be authority for the Comptroller of Public Accounts to issue a Warrant therefor to the State Board of Insurance. The Board shall forthwith deposit such funds in accordance with the provisions of Section 2(h) of this Article, except that funds derived from one insurer need not be kept separate from funds derived through any other insurer.

Such funds may be used as provided in Section 8(h) of this Article. Added Acts 1963, 58th Leg., p. 1309, ch. 499, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 21.35. Policies and Applications

Standard non-forfeiture law, see art. 3.-
44a.

Art. 21.43. Foreign Insurance Corporations

(a) The provisions of this Code are conditions upon which foreign insurance corporations shall be permitted to do business within this state, and any such foreign corporation engaged in issuing contracts or policies within this state shall be held to have assented thereto as a condition precedent to its right to engage in such business within this state.

(b) No foreign insurance corporation of a type provided for in any Chapter of this Code shall be denied permission to do business within this state for the reason that the name of such corporation is the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or of any foreign corporation authorized to transact business in this state, provided such foreign insurance corporation files an assumed name certificate setting forth a different name, with the State Board of Insurance and with county clerks as provided by Article 5924, Revised Civil Statutes of Texas, 1925. No such foreign insurance corporation shall transact or conduct any business in this state except under the assumed name.

(c) No foreign or alien insurance corporation shall be denied permission to do business within this state for the reason that all of its authorized capital stock has not been fully subscribed and paid for; provided

(1) That at least the minimum dollar amount of capital stock of such corporation required by the laws of this state (which may be less than all of its authorized capital stock) has been subscribed and paid for; and

(2) That it has at least the minimum dollar amount of surplus required by the laws of this state for the kinds of business such corporations seek to write; and

(3) That such corporation has fully complied with all laws of its domiciliary state relating to authorization and issuance of capital stock. As amended Acts 1963, 58th Leg., p. 1310, ch. 500, § 2.

Emergency. Effective June 11, 1963.

Business under assumed name, see Vernon's Ann.Civ.St. art. 5924.

Foreign corporation, corporate name, see V.A.T.S. Bus.Corp.Act, art. 8.03.

TITLE 79—INTEREST

Article 5069. [4973-4974-4975] Definitions

"Interest" is the compensation allowed by law or fixed by the parties to a contract for the use or forbearance or detention of money; "legal interest" is that interest which is allowed by law when the parties to a contract have not agreed upon any particular rate of interest; and "conventional interest" is that interest which is agreed upon and fixed by the parties to a written contract. The maximum rate of interest shall not exceed that specifically fixed by the Legislature as in the Texas Regulatory Loan Act, Acts of the 58th Legislature, Regular Session, 1963,¹ or other legislation; provided, however, in the absence of such legislation fixing maximum rates of interest, a greater rate of interest than ten per centum (10%) per annum shall be deemed usurious. "Usury" is interest in excess of the amount allowed by law; all contracts for usury are contrary to public policy and shall be void. As amended Acts 1963, 58th Leg., p. 550, ch. 205, § 26.

¹ Article 6165b.

Effective 90 days after May 24, 1963, date of adjournment. Maximum rates of interest under The Texas Regulatory Loan Act, see art. 6165b, § 17.

Inapplicability of article 5069 to licensees under the Texas Regulatory Loan Act where inconsistent with the Act, see article 6165b, § 29.

Art. 5071. [4979-4980] Limit on rate

Except where otherwise specifically provided by the Legislature, as in the Texas Regulatory Loan Act, Acts of the 58th Legislature, Regular Session, 1963,¹ the parties to any written contract may agree to and stipulate for any rate of interest not exceeding ten per centum (10%) per annum on the amount of the contract; and except as above provided in this Article all other written contracts whatsoever, which may in any way, directly or indirectly, provide for a greater rate of interest shall be void and of no effect for the amount or value of the interest only; but the principal sum of money or value of the contract may be received and recovered. As amended Acts 1963, 58th Leg., p. 550, ch. 205, § 27.

¹ Article 6165b.

Effective 90 days after May 24, 1963, date of adjournment. Maximum rates of interest under The Texas Regulatory Loan Act, see art. 6165b, § 17.

Inapplicability of article 5071 to licensees under the Texas Regulatory Loan Act where inconsistent with the Act, see article 6165b, § 29.

Art. 5073. [4982] Action on usurious rate

Within four (4) years after the time that a greater rate of interest than that fixed in the Texas Regulatory Loan Act, Acts of the 58th Legislature, Regular Session, 1963,¹ or by some other Act of the Legislature, but, if no other rate is so fixed, than ten per centum (10%) per annum, shall have been received or collected upon any contract, the person paying the same or his legal representative may by an action of debt recover double the amount of such interest from the person, firm, or corporation receiv-

ing the same and reasonable attorney's fees to be set by the court. Such action shall be instituted in any court of this state having jurisdiction thereof, in the county of the defendant's residence, or in the county where such usurious interest shall have been received or collected, or where said contract has been entered into, or where the parties who paid the usurious interest resided when such contract was made. As amended Acts 1963, 58th Leg., p. 550, ch. 205, § 28.

¹ Article 6165b.

Effective 90 days after May 24, 1963, date of adjournment.

Maximum rates of interest under The Texas Regulatory Loan Act, see art. 6165b, § 17.

Inapplicability of article 5073 to licensees under the Texas Regulatory Loan Act where inconsistent with the Act, see article 6165b, § 29.

TITLE 81—JAILS

Art. 5118a. Commutation for good conduct; forfeiture of commutation; record

In order to encourage county jail discipline, a distinction may be made in the terms of prisoners so as to extend to all such as are orderly, industrious and obedient, comforts and privileges according to their deserts; the reward to be bestowed on prisoners for good conduct shall consist of such relaxation of strict county jail rules, and extension of social privileges as may be consistent with proper discipline. Commutation of time for good conduct, industry and obedience may be granted the inmates of each county jail by the sheriff in charge. A deduction in time not to exceed one third ($\frac{1}{3}$) of the original sentence may be made from the term or terms of sentences when no charge of misconduct has been sustained against the prisoner. This Act shall be applicable regardless of whether the judgment of conviction is a fine or jail sentence or a combination of jail sentence and fine. A prisoner under two (2) or more cumulative sentences shall be allowed commutation as if they were all one sentence. For such sustained charge of misconduct in violation of any rule known to the prisoner (including escape or attempt to escape) any part or all of the commutation which shall have accrued in favor of the prisoner to the date of said misconduct may be forfeited and taken away by the sheriff. No other time allowance or credits in addition to the commutation of time for good conduct herein provided for may be deducted from the term or terms of sentences. The sheriff shall keep or cause to be kept a conduct record in card or ledger form and a calendar card on each inmate showing all forfeitures of commutation time and the reasons therefor. As amended Acts 1963, 58th Leg., p. 943, ch. 371, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Penitentiaries, commutation for good conduct, see art. 6166v.

TITLE 82—JUVENILES

<p>Art. 5139 PP. Bell County Juvenile Board [New].</p>	<p>Art. 5142c-3. Juvenile officer for counties with- in 69th Judicial District [New].</p>
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Art. 5139OO. Runnels County Juvenile Board

Sec. 2A. The Juvenile Board of Runnels County shall, with the consent of the County Commissioners Court, appoint the Juvenile and Probation Officer of Runnels County, who shall meet all the qualifications and perform all the duties of a juvenile officer as prescribed by the laws of this State, and who shall act as the Juvenile and Adult Probation Officer in Runnels County for the Juvenile Board and the Juvenile Court, for the courts of Runnels County having original jurisdiction of felony criminal actions. The Juvenile and Probation Officer shall be paid a salary as fixed by the Juvenile Board and approved by the County Commissioners Court. Added Acts 1963, 58th Leg., p. 839, ch. 319, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 5139PP. Bell County Juvenile Board

Section 1. There is hereby established a Juvenile Board for Bell County, which shall be known as the Bell County Juvenile Board. It shall be composed of the district judges of the several judicial districts of such county and the county judge of such county. The county judge of such county shall be chairman of such board and its chief administrative officer. The board shall have all the powers conferred on juvenile boards created under Article 5139 of the Revised Civil Statutes of 1925, and any amendments thereto.

Sec. 2. As compensation for the added duties hereby imposed upon members of such board, each member thereon may, if approved by the commissioners court of the county, be compensated by an annual salary not to exceed Thirty-six Hundred Dollars (\$3,600), payable in twelve (12) equal monthly installments out of the general fund of the county. Such compensation shall be in addition to all other compensation now provided or allowed by law for county and district judges. Acts 1963, 58th Leg., p. 322, ch. 120.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act establishing a Juvenile Board for Bell County; prescribing the membership

of the board and providing for the compensation of its members; and declaring an emergency. Acts 1963, 58th Leg., p. 322, ch. 120.

Art. 5142c-3. Juvenile officer for counties within 69th Judicial District

(a) A juvenile officer may be employed to serve any or all counties at their request within the 69th Judicial District by appointment of the District Judge of the 69th Judicial District. The annual salary of such officer shall be fixed by the District Judge of the 69th Judicial District with approval of Commissioners Courts of the counties participating in an amount not to exceed Eight Thousand Dollars (\$8,000). The total salary of such juvenile officer shall be derived from the participating counties of the 69th Judicial District, with contributions among them in the same proportion as the population in each county using the services of such

officer bears to the total population of all counties participating. Populations used shall be those of the last preceding Federal Census.

(b) Such juvenile officer may be reimbursed by each county in which he renders services to the county for actual expenses for meals and lodging while serving such county, and for travel expenses at the rate fixed by the Commissioners Court of each county contributing to his salary.

(c) Any school district, city or town within the 69th Judicial District may participate in the services of such juvenile officer by contributing to the total expenses of such officer in an amount fixed by the District Judge of the 69th Judicial District. When any school district, city or town contributes to the salary of such juvenile officer, then the total amount to be contributed by the counties may be reduced in the amount contributed by any school district, city or town. Acts 1963, 58th Leg., p. 968, ch. 391, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 83—LABOR

CHAPTER FOUR—BOND TO SECURE WAGES

Art. 5160. Bond for labor and material; performance bond

Navigation districts, bond of successful bidder for public improvement, see art. 8263e, § 66.

CHAPTER FIVE—HOURS OF LABOR

Art.

5167a. Hours of peace officers in counties of over 500,000 population [New].

Art. 5165a. Weekly working hours of state office employees

Section 1. All state employees who are employed in the offices of state departments or institutions or agencies, and who are paid on a full-time salary basis, shall work forty (40) hours a week. Provided, however, that the administrative heads of agencies whose functions are such that certain services must be maintained on a twenty-four (24) hours per day basis are authorized to require that essential employees engaged in performing such services be on duty for a longer work-week in necessary or emergency situations.

Sec. 2. Except as otherwise provided in Section 1 of this Act, and except on legal holidays authorized by law, the normal office hours of state departments, institutions and agencies shall be from 8:00 a. m. to 5:00 p. m., Mondays through Fridays, and these shall be the regular hours of work for all full-time employees; provided, however, that such normal working hours for employees of state departments and agencies in the Capitol Area in Austin may be staggered in such manner as biennial Appropriations Acts of the Legislature may stipulate or authorize in the interests of traffic regulation and public safety. Where an executive head deems it necessary or advisable, offices may also be kept open during other hours and on other days, and the time worked on such other days shall count toward the forty (40) hours per week which are required under Section 1 of this Act. It is further provided that exceptions to the minimum length of the work week may be made by the executive head of a state agency to take care of any emergency or public necessity that he may find to exist. None of the provisions of this Act shall apply to persons employed on an hourly basis. As amended Acts 1963, 58th Leg., p. 184, ch. 104, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 5167a. Hours of peace officers in counties of over 500,000 population

Except in cases of emergency, as determined by the sheriff or constable of such county, it shall be unlawful for any county having more than five hundred thousand (500,000) inhabitants according to the last preceding Federal Census to require or permit any Peace Officer to work more hours during any calendar week than the number of hours

in the normal work week of the majority of the employees of said county other than Peace Officers. Acts 1963, 58th Leg., p. 1190, ch. 474, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Commissioners court, authority to formulate hours of work in counties of 500,000 or more, see art. 2372h.

determined by the sheriff or constable, for Peace Officers of all counties over five hundred thousand (500,000) population according to the last preceding Federal Census; and declaring an emergency. Acts 1963, 58th Leg., p. 1190, ch. 474.

Title of Act:

An Act limiting the maximum working hours except in cases of emergency, as

CHAPTER EIGHT—CHILD LABOR

Art. 5181. Repealed. Acts 1963, 58th Leg., p. 676, ch. 249, § 4. Eff. 90 days after May 24, 1963, date of adjournment

See, now, Vernon's Ann.P.C. arts. 1577 to 1578b.

CHAPTER TWELVE—RESTRICTIONS ON LABOR

Art. 5197. [595] Discrimination prohibited, etc.

Denial of right to work because of age, see art. 6252—14.

CHAPTER THIRTEEN—EMPLOYMENT AGENTS

Art. 5221a—6. Private Employment Agency Law

Fees

Sec. 8. Private Employment Agents or Agencies as defined by this Act and who are engaged in the business of attempting to procure employment for employees or procures or attempts to procure employees for employers in skilled, professional, or clerical positions may charge, with the written consent of the applicant, a fee, not to exceed forty per cent (40%) of the first month's agreed salary or gross earnings when such agreed salary or gross earnings does not exceed the sum of Seven Hundred and Fifty Dollars (\$750.00) per month. When the agreed salary or gross earnings exceeds the sum of Seven Hundred and Fifty Dollars (\$750.00) per month, the amount of the fee to be charged the applicant shall be determined solely upon the terms of a contract in writing between the agency and the applicant. Provided, however, no charge of any kind shall be made or collected from an applicant for a position until after the employment has been obtained through the agent or agency and accepted by the applicant. As amended Acts 1963, 58th Leg., p. 1131, ch. 436, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION**Art. 5221b—3. Disqualification for benefits**

(g) For the duration of any period of unemployment with respect to which the Commission finds that such individual has left his most recent full time work for the purpose of attending an established educational institution. Added Acts 1963, 58th Leg., p. 543, ch. 200, § 1.

Effective Jan. 1, 1964.

CHAPTER FIFTEEN—INSPECTION OF STEAM BOILERS**Art. 5221c. Inspection and inspectors****Interval between internal inspections**

Sec. 4a. Upon the approval of the Commissioner and the inspection agency having jurisdiction, the interval between internal inspections may be extended for a period not to exceed twenty-four (24) months on stationary boilers and thirty-six (36) months on unfired boilers provided: (1) continuous water treatment under competent and experienced supervision has been in effect since the last internal inspection for the purpose of controlling and limiting corrosion and deposits; (2) accurate and complete records are available showing that since the last internal inspection samples of boiler water have been taken at regular intervals not greater than twenty-four (24) hours of operation and that the water condition in the boiler is satisfactorily controlled; (3) accurate and complete records are available showing the dates such boiler has been out of service and the reasons therefor since the last internal inspection, and such records shall include the nature of all repairs to the boiler, the reasons why such repairs were necessary and by whom the repairs were made; and (4) the last internal and current external inspection of the boiler indicates the inspection period may be safely extended. When such an extended period between internal inspections has been approved by the Commissioner and the inspection agency having jurisdiction, as outlined in this Section, a new Certificate of Operation shall be issued for that extended period of operation. Added Acts 1963, 58th Leg., p. 131, ch. 78, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER SIXTEEN—MISCELLANEOUS PROVISIONS**Art. 5221e. Texas Council of Migrant Labor**

Denial of right to work because of age,
see art. 6252—14.

Tex.St.Supp. 1964—43

TITLE 86—LANDS—PUBLIC

CHAPTER THREE—SURFACE AND TIMBER RIGHTS

Art. 5306. [5405] Sale and lease of public lands provided for

Control of forest pests, see art. 165—9.

CHAPTER FOUR—OIL AND GAS

Art. 5344c. Oil, gas and mineral leases; terms; extension

Sec. 2. Any lease heretofore granted and in good standing covering any of the lands or areas referred to in Section 1 of this Act, upon application by any owner thereof to the Commissioner of the General Land Office before January 1, 1965, may be amended under the terms of this Act so as to provide that such lease shall remain in effect as long after the expiration of its primary term as oil, gas, or other mineral covered by such lease is produced therefrom, provided any amendment executed by virtue of this Act shall include only those minerals covered in the original agreement to which said amendment is made; and providing further, that in amending such leases same shall be amended and renewed separately as to each mineral thereunder, except as to 'oil and gas' which may be contained in one lease and each such lease shall remain in effect as long after the expiration of its primary term as such mineral covered by such lease is produced therefrom in paying quantities. The School Land Board shall fix the consideration for each such amendment, which shall not be less than Two Dollars (\$2) per acre, provided that any such amendment shall not change the original consideration in any lease to the extent that the state shall thereafter receive less than the original royalty provided in said leases. If the consideration so fixed is paid in cash within ninety (90) days after such consideration has been fixed, the Commissioner of the General Land Office shall execute and deliver to the owner of such lease an instrument evidencing such amendment. If the consideration is not paid within the ninety (90) days, the application shall be conclusively presumed to have been withdrawn. This Act shall not authorize the Commissioner of the General Land Office or the School Land Board to change or amend the lease involved in any other respect. As amended Acts 1963, 58th Leg., p. 485, ch. 174, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 5382d. Lease of lands to State Departments, Board and Agencies

Boards for lease

Section 1. There is hereby created Boards for lease of lands owned by any department, Board or agency of the State of Texas, which Boards for Lease shall consist of the Commissioner of the General Land Office, who shall be chairman, one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, and the particular president or chairman of the Board or agency, or head of the department charged with the responsibility of management or control of lands now owned by, or that may hereafter be owned by, or held in trust for, the use and benefit of said depart-

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ment, agency or Board. The title of each Board hereby created shall be selected by each Board for Lease at its first meeting after the effective date of this Act. Each Board for Lease shall keep a complete record of all of its proceedings. A majority of each Board for Lease shall constitute a quorum for the transaction of business by that particular Board. Each Board for Lease shall select a secretary who shall be nominated by the Commissioner of the General Land Office and approved by a majority of the particular Board for Lease. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Control and disposition of lands set apart for permanent free school fund and asylum funds and mineral estate within tidewater limits, see art. 5421c—3.

Deposit of revenues derived from easements on property under control of Department of Corrections, see art. 6203d—1.

Oil and gas lands of state eleemosynary and state memorial park lands, lease, see art. 3183a.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

CHAPTER SEVEN—GENERAL PROVISIONS

Art. 5415d. State beaches; right of public to free and unrestricted use and enjoyment

Study committee

“Sec. 7. Because of certain problems peculiar to the various beaches of Texas, a study committee is hereby authorized to study the development of those beaches. The committee shall be composed of three (3) Representatives to be appointed by the Speaker of the House of Representatives, three (3) Senators to be appointed by the Lieutenant Governor of the state, and, as ex officio members, the Land Commissioner of the State of Texas, or a representative appointed by such Land Commissioner, the Chief Engineer of the Highway Department of the State of Texas, or a representative appointed by such Chief Engineer, and one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years. The expense incurred by the legislative members of the committee in performing their duty shall be payable one-half out of the Contingent Expense Fund of the House and one-half out of the Contingent Expense Fund of the Senate. Such interim committee shall examine into the special conditions prevailing as to the shore line in the various areas, and shall file its report to the Legislature, whether in Special or General Session, at the earliest time compatible with the performance of its duties. The report shall include recommendations for legislation, including the following subjects:

a. The most practical method of procuring the right-of-way necessary for construction of essential parallel highways and for vehicular parking areas (to facilitate access to the beach) all to be situated landward and above the beach;

b. Method of procuring easements for egress and ingress between such parking areas and the beach;

c. Procedure for negotiation and execution of cooperative agreements between the state and affected landowners for acquisition by gift or purchase of such rights-of-way and easements;

d. Recognition of rights in such landowners to construct works, including groins, for the protection of their property and meeting the standards to be prescribed in such legislation;

e. Method of negotiations with landowners for additional easements or deeds for park areas adjacent to the beach, for the use and pleasure of the public, provided such lands or easements can be obtained without cost to the state;

f. Any change necessary to bring general legislation into conformity with the fixed procedures applicable to National Seashore Areas, to the extent that lands along the coast may be designated to a National Seashore Area; and

g. Such other related matters as in the opinion of the interim committee should be included in such report so as to facilitate the development of Texas beaches as public recreational areas and to further their development as a tourist attraction. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 16.

Effective 90 days after May 24, 1963, date of adjournment.

Speed of vehicles in parks of counties bordering Gulf of Mexico, see Vernon's Ann.P.C. art. 827g.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

Art. 5421c. Regulating sale and lease of school lands, public lands and river bed; Board of Mineral Development created

River beds belonging to State, development and lease of; Board of Mineral Development created, powers and duties

Sec. 8-A.

Subsec. 5. The School Land Board shall not be authorized to lease or otherwise contract for the development of, and shall not have the power to authorize or contract for the drilling of any river beds or channels situated at the time of executing said lease or contract, more than two miles from a well producing or capable of producing oil or gas in paying quantities, unless an owner of a leasehold or mineral interest in the oil or gas estate in land located adjacent to or within two miles of a river bed or channel shall desire to drill a test well for oil and/or gas in, under or within two miles of such river bed or channel. In such event the owner of such interest shall apply to the School Land Board for an oil and gas lease on such portions of said river beds or channels as he desires to lease and as are available for lease hereunder, indicating the site in or within two miles of said river beds or channels where he desires to drill said well. Whereupon, the School Land Board shall, within sixty (60) days after the date such application is received, using the rules of procedure and pursuant to regulations in effect for the sale and leasing of lands owned by the State of Texas and the leasing of mineral estates in river beds and channels etc. belonging to the State of Texas, as provided by law, lease such river beds or channels to the highest bidder for oil and gas development; provided that said lease shall be limited to such portions of said river beds or channels as are within two (2) miles of a point therein at the end of a line drawn from said designated well site perpendicular to the general course of said river beds or channels; provided further, that such lease shall terminate and be of no further force and effect at the expiration of two years from the date of its delivery to such highest bidder unless on or before such date production of oil or gas in paying quantities shall have been established from some portion of the river beds or channels covered by said lease or from

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adjacent or nearby lands with which such river beds or channels covered by said lease, or some portion thereof, have been lawfully pooled or unitized so that royalties payable under said lease are accruing to the State of Texas on such date. As amended Acts 1963, 58th Leg., p. 920, ch. 352, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

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

5. [3]. There is hereby created a Board to be known as the School Land Board, and to be composed of three (3) members, namely: the Commissioner of the General Land Office, who shall be chairman, the Governor and one (1) citizen of the state, appointed by the Attorney General with the advice and consent of the Senate, who shall serve for a term of two (2) years. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 5.

Effective 90 days after May 24, 1963, date of adjournment.

Lease of lands of state departments, boards and agencies, see art. 5382d.

Acts 1963, 58th Leg., p. 1138, ch. 442, § 5, purports to amend par. 5 of this article. It is apparent from the subject matter that amendment of par. 3 was intended, and the amendatory provision has been so treated.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

Art. 5421c—7. Prospecting state lands for minerals, including fissionable materials

Lands, waters and minerals to which applicable; application for permit; rental payments

Section 1. Any tract of land belonging to the State, including all islands, salt and fresh water lakes, bays, inlets, marshes and reefs owned by the State within tidewater limits, and that part of the Gulf of Mexico within the jurisdiction of Texas, and all unsold surveyed public free school land and all rivers and channels belonging to the State and any lands sold with a reservation in favor of the State of minerals thereunder, shall be subject to prospect for uranium, thorium, and other fissionable materials, and all other minerals, except oil, gas, coal, lignite, sulphur, salt and potash, shell, sand and gravel, by any person, firm or corporation desiring to prospect same by the filing of an application with the Commissioner of the General Land Office designating the area to be prospected, each such application shall be for an area not in excess of six hundred and forty (640) acres. Such application must be accompanied by rental payment of twenty-five cents (25¢) per acre. As amended Acts 1963, 58th Leg., p. 933, ch. 362, § 1.

Surveyed public free school land

Sec. 2. Permits shall be issued by the Commissioner of the General Land Office giving to the first applicant a period of one (1) year from the date of filing his application within which to prospect the area designated. A permit may be extended at the discretion of the Commissioner for periods of one (1) year upon payment of an annual rental of twenty-five cents (25¢) per acre, but in no event to exceed five (5) consecutive years from date of such permit. Permittee may at any time during the effective period of such permit file an application to lease the area covered by the permit,

or a designated portion thereof, for the purpose of mining or producing the minerals covered thereby, which application shall be accompanied by the first rental payment of not less than Two Dollars (\$2) per acre. The annual rental payments thereafter during the primary term shall be not less than One Dollar (\$1) per acre, which shall be payable unless production in paying quantities is being obtained and royalty being paid the State thereon. If the designated area is less than that covered by the permit, the applicant shall forward with his application field notes prepared by the county surveyor or a licensed State land surveyor, describing the area so designated. As amended Acts 1963, 58th Leg., p. 933, ch. 362, § 1.

Effective 90 days after May 24, 1963, date of adjournment. of repealed all conflicting laws and parts of laws.

Acts 1963, 58th Leg., p. 933, ch. 362, § 2, was a savings provision; section 3 there- Liability insurance for operators of atomic energy reactors, see art. 4590g.

Art. 5421m. Veteran's Land Board**Group life insurance coverage cancelling indebtedness of purchasers**

Sec. 16(B). The Board may enter into a master contract or agreement with one or more life insurance companies authorized to do business in Texas to provide group life insurance coverage cancelling upon death the indebtedness due the Board of persons purchasing land under the Texas Veterans Land Program. Such contract shall not prohibit cancellation by the insurer of the entire contract upon reasonable notice to the Board but shall prohibit cancellation of individual coverage except as hereinafter expressly authorized. The master contract or agreement shall provide, in addition to those provisions of Article 3.50 of the Insurance Code of the State of Texas, that the life insurance coverage will be offered by the writing insurance company or companies to all such persons without a physical examination and that no such person shall be denied coverage because he is disabled at the time of application for such coverage. The policy contract shall express and control the contractual relationship between all parties thereto and shall be approved by the State Board of Insurance in accordance with the provisions of the Insurance Code of Texas, as amended. It shall not be mandatory that any person purchasing land under the Texas Veterans Land Program accept the offer of such coverage, and refusal by such person to accept the offer of such coverage shall not be a ground for the Board to decline to enter into a contract of sale and purchase with any such person. Such coverage shall be terminated as to any person of the group upon: (1) the satisfaction of the indebtedness due the Board; or (2) upon the Board's approval of a transfer of interest in the land being purchased from the Board; or (3) upon failure to make timely payment of the premium to be paid for such coverage; such master contract may provide that coverage will terminate upon the person purchasing land under the Texas Veterans Land Program attaining the age of sixty-five (65) years. When coverage has been terminated as to any member of the group for failure to make timely payment of the premium, renewal of coverage shall be subject to evidence of insurability as required by and satisfactory to the insurance company and upon payment of the premium due plus any penalty that may be provided. The total insurance coverage as to any person of the group shall not at any time exceed the indebtedness due the Board, but in no event shall such total insurance coverage exceed Ten Thousand Dollars (\$10,000). The Board may collect, or provide for the collection of, the premium for such coverage in any reasonable manner. If the death of a person of the group occurs while the insurance coverage is in force, the benefits of such

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coverage shall be paid to the Veterans Land Board for credit to the Veterans Land Fund and shall cancel the indebtedness due the Board.

The following words and phrases shall for the purposes of Section 16(B) of this Act have the meaning indicated:

a. "Persons purchasing land under the Texas Veterans Land Program" shall mean any person or persons, and his or their successors or assigns, who are buying land from the Veterans Land Board under contract of sale and purchase, whether such land has been sold by the Board under Section 12, Section 16, or Section 19(A) of this Act.

b. "Person of the group" shall mean any person purchasing land under the Texas Veterans Land Program, as defined above, who has elected to accept the offer of the insurance coverage provided for in Section 16(B) of this Act.

c. "The indebtedness due the Board" shall mean the principal and interest thereon necessary to pay in full the obligation set forth in any contract of sale and purchase under which any person of the group, as defined above, is purchasing land from the Veterans Land Board, exclusive of delinquent principal, interest, and penalties. As amended Acts 1963, 58th Leg., p. 331, ch. 126, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Amendment of this article by Acts 1963, 58th Leg., p. 1155, ch. 450, was conditioned upon adoption of amendment to Const. art. 3, § 49-b, proposed by S.J.R. No. 16, Acts

1963, 58th Leg., p. 1800, voted on at election held on Nov. 9, 1963. The proposed constitutional amendment was rejected by the voters and therefore Acts 1963, 58th Leg., p. 1155, ch. 450 did not become effective or operative as a law.

TITLE 87—LEGISLATURE

Art.
5429b—1. Statutory revision program
 [New].

Art. 5429b—1. Statutory revision program

Section 1. There is created a permanent statutory revision program for the systematic and continual study of the statutes of this state and for formal revisions on a topical or code basis to clarify, simplify and make generally more accessible, understandable and usable the statutory law of Texas. In carrying out the revision program, the sense, meaning or effect of any legislative act shall not be altered.

Sec. 2. The Texas Legislative Council shall plan and execute the statutory revision program. The work of revision shall include but not be limited to:

(a) The preparation of a statutory record showing the status and disposition within the classification of the revised statutes of all acts enacted by the Legislature.

(b) The preparation and submission to the Legislature from time to time in bill form revisions of the statutes on a topic or code basis. Such revisions shall be accompanied by reports containing the revisor's notes explaining in detail the work done.

(c) The formulation and implementation of a continuous revision program whereby the statutes which have been revised and enacted by the Legislature may be kept up to date, thus obviating the necessity of subsequent major revisions.

Sec. 3. (a) A Statutory Revision Advisory Committee shall be appointed by the Chairman of the Texas Legislative Council to consult with and advise the Council with respect to matters relating to the classification and arrangement of the statutes, the numbering system to be used and the preparation of a revisor's manual. The Advisory Committee shall consist of seven (7) members, who shall serve without compensation but shall be allowed actual expenses incurred in attending official meetings of the Committee. All such expenses incurred shall be paid out of any funds appropriated to the Texas Legislative Council. The Advisory Committee shall select one of its members as chairman, and shall meet at the call of the Chairman of the Texas Legislative Council. The Committee shall include representatives of the State Bar of Texas, the judiciary, and the Texas Law Schools. The Advisory Committee shall serve for a period of two (2) years from the date of appointment.

(b) Subsequent Advisory Committees may be appointed to consult with and advise the Legislative Council with respect to matters relating to the revision of particular subjects of the law when the Legislative Council determines a need exists for such a committee. Such Committees shall be appointed in the same manner, shall be similarly constituted and subject to the same provisions as provided in Paragraph (a) of this Section. Acts 1963, 58th Leg., p. 1152, ch. 448.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 89—LIBRARY AND HISTORICAL COMMISSION

Art.

5442a. Depository libraries for state documents [New].

Art. 5434. [5600-5601] Organization

Commissioners court, appropriations for erection of historical markers and monuments, see art. 2372r. Old Galveston Quarter, see art. 6145-4.

Art. 5441a. Records Management Division**Establishment and maintenance; duties; qualifications of assistant**

Section 1. The Texas Library and Historical Commission is hereby authorized to establish and maintain in the State Library a records management division which (1) shall manage all public records of the state with the cooperation of the heads of the various departments and institutions in charge of such records and (2) shall also conduct a photographic laboratory for the purpose of making photographs, microphotographs, or reproductions on film, or to arrange for all or part of such work to be done by an established commercial agency which meets the specifications established by this Article for the proper accomplishment of the work. The assistant who shall be appointed by the Commission to head such division shall have had appropriate training and experience in the field of public records management.

Definitions

Sec. 2. For the purpose of this Article:

"Photographic reproduction" shall mean reproduction by an ^{72a} photographic process, including that by microprint or by microphotography on film, including both negative and positive copies.

"Public Records" means document, book, paper, photograph, sound recording or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in the Article.

"Department or institution" shall mean any state department, institution, board or commission, whether executive, educational, judicial, or eleemosynary in character.

"Head of department or institution" shall mean the official or officials, whether appointive or elective, who has or have authority over the records of the department or institution involved.

"Local units of government" shall mean all local units of government, including cities, towns, counties, and districts.

Surveying, indexing, classification and destruction of records; duties of department heads pertaining to records

Sec. 3. With the cooperation of the heads of the various departments and institutions the public records of such departments and institutions shall be surveyed, indexed and classified under the direction of the records

management division. Furthermore, with the approval of the State Director and Librarian the head of any department or institution may destroy any public records in his custody which, in his opinion have no further legal, administrative or historical value, provided, however, that he shall first file application to do so with the State Director and Librarian, describing in such application the original purposes and contents of such public records, and provided further, that the approval of the State Auditor shall also be required with regard to the destruction of public records of a fiscal or financial nature. The head of any department or institution shall (1) establish and maintain an active, continuing program for the economical and efficient management of the records of the agency; (2) make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities; and (3) submit to the Director, Records Management Division of the State Library, in accordance with the standards established by him, schedules proposing the length of time each state record series warrants retention for administrative, legal or fiscal purposes after it has been promulgated or received by the agency. The head of each department and institution also shall submit lists of public records in his custody that do not have sufficient administrative, legal or fiscal value to warrant their retention, for disposal in conformity with the requirements of this Section. The head of each department or institution shall act as, or shall appoint an employee of his department or institution performing other administrative duties to act as, a records administrator of the department or institution. Such records administrator shall comply with the rules, regulations, standards and procedures issued by the Director of the Records Management Division.

Photographic reproductions

Sec. 4. The State Director and Librarian, either on his own initiative or upon request of the head of any department or institution, may provide for the making of photographic reproductions of the public records of any department or institution, and such public records shall be open to the State Director and Librarian for such purpose; provided, however, that no such action shall be taken except with the consent of the head of such department or institution.

Quality and accuracy of photographic reproductions

Sec. 5. Any photographic reproduction made by microprint or by microphotography on film shall comply with the minimum standards of quality approved for permanent photographic records by the National Bureau of Standards, and the devices used to reproduce such public records shall be those which accurately reproduce the original thereof in all details.

Private or public use of photographic reproductions

Sec. 6. The State Director and Librarian is hereby authorized to make photographic reproductions for private and public use on the following basis: (1) For official use of departments and institutions no charge shall be made; (2) for the official use of local units of government charge shall be made on a cost basis; (3) for copies of public records for private use charge shall be at a rate to be fixed by the State Director and Librarian in keeping with standard commercial rates. All money received by the State Library in payment for charges for photographic reproduction shall

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

be paid into the State Treasury. As amended Acts 1963, 58th Leg., p. 435, ch. 154, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 5442a. Depository libraries for state documents

Section 1. The term "state document" as used in this Act means all publications of state agencies which the Texas State Library is authorized by Revised Civil Statutes, 1925, Article 5442, to acquire and distribute.

Sec. 2. The term "depository libraries" as used in this Act means the Texas State Library, libraries of state institutions of higher education, and other libraries so designated by the Texas Library and Historical Commission upon determination that such designations are necessary to provide adequate access to state documents.

Sec. 3. Each state agency shall furnish the Texas State Library with state documents in the quantity specified in the Revised Civil Statutes, 1925, Article 5442.

Sec. 4. State documents shall be made available to depository libraries under the direction of the Texas State Library.

Sec. 5. To facilitate distribution of state documents, each state agency shall furnish the Texas State Library with a list of state documents which it has issued during the preceding month, this list to be reproduced and distributed to all depository libraries and to such other agencies and institutions which request this list.

Sec. 6. Free use by the general public shall be a condition of depository privilege. Acts 1963, 58th Leg., p. 1133, ch. 438.

Emergency. Effective August 31, 1963.

Acts 1963, 58th Leg., p. 1133, ch. 438, §§ 7 and 8 provided:

"Sec. 7. The provisions of this Act shall be construed as additional and cumulative to all other laws.

"Sec. 8. This Act shall take effect August 31, 1963."

Title of Act:

An Act to establish depository libraries with authority in the Director and Librarian of the Texas State Library; requiring certain acts to be performed to facilitate distribution of state documents; and declaring an emergency. Acts 1963, 58th Leg., p. 1133, ch. 438.

TITLE 90—LIENS

CHAPTER ONE—JUDGMENT LIEN

Art. 5447. [5611-2-3] Abstracts of judgments

Lien upon real estate as security for loan under the Texas Regulatory Loan Act, see art. 6165b, § 20.

TITLE 91—LIMITATIONS**3. GENERAL PROVISIONS****Art. 5546. [5714] [3379] Notice of claims for damages**

(a). No stipulation in a contract requiring notice to be given of a claim for damages as a condition precedent to the right to sue thereon shall ever be valid unless such stipulation is reasonable. Any such stipulation fixing the time within which such notice shall be given at a less period than ninety (90) days shall be void, and when any such notice is required, the same may be given to the nearest or to any other convenient local agent of the company requiring the same. No stipulation in any contract between a person, corporation, or receiver operating a railroad, or street railway, or interurban railroad, and an employee or servant requiring notice of a claim by an employee or servant for damages for injury received to the person, or by a husband, wife, father, mother, child or children of a deceased employee for his or her death, caused by negligence as a condition precedent to liability, shall ever be valid. In any suit brought under this and the preceding Article it shall be presumed that notice has been given unless the want of notice is especially pleaded under oath.

(b). The provisions of Paragraph (a) shall apply to contracts between Federal prime contractors and their sub-contractors except that the notice stipulation in such subcontracts may be for a period of not less than the notice requirement provided in the prime contract between the Federal Government and the prime contractor, less seven (7) days. As amended Acts 1963, 58th Leg., p. 1274, ch. 488, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 92—MENTAL HEALTH

I. MENTAL HEALTH CODE

CHAPTER III—INVOLUNTARY HOSPITALIZATION

Art.		Art.	
5547—39a.	Notice of appeal [New].	5547—39c.	Stay order [New].
5547—39b.	Transcript on appeal [New].	5547—39d.	Trial of appeals [New].

PART 2. TEMPORARY HOSPITALIZATION FOR OBSERVATION
AND/OR TREATMENT

Art. 5547—36. Hearing on the application

(a) The Judge may hold the hearing on an Application for Temporary Hospitalization at any suitable place within the county. The hearing should be held in a physical setting not likely to have a harmful effect on the mental condition of the proposed patient in the event he is present.

(b) The proposed patient is not required to be present at the hearing, but he shall not be denied the right to be present.

(c) The Court may exclude all persons not having a legitimate interest in the proceedings, provided the consent of the proposed patient first shall have been obtained.

(d) The hearing shall be conducted in as informal a manner as is consistent with orderly procedure.

(e) The hearing shall be before the Court without a jury, unless a jury is demanded by a person authorized to make such demand or by the proposed patient or by the Court. As amended Acts 1963, 58th Leg., p. 1369, ch. 522, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 5547—39a. Notice of Appeal

The person ordered committed may appeal the Order of Temporary Hospitalization by filing written notice thereof with the County Court within five (5) days after the Order of Temporary Hospitalization is entered. Acts 1957, 55th Leg., p. 505, ch. 243, § 39a, added Acts 1963, 58th Leg., p. 1369, ch. 522, § 1.

Effective 90 days after May 24, 1963 date of adjournment.

Art. 5547—39b. Transcript on Appeal

When notice of appeal is filed, the clerk shall immediately send a certified transcript of the proceedings to the District Court of the county. Acts 1957, 55th Leg., p. 505, ch. 243, § 39b added Acts 1963, 58th Leg., p. 1369, ch. 522, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 5547—39c. Stay Order

Pending the appeal, the County Judge shall stay the Order of Temporary Hospitalization, and release the proposed patient from custody, upon the posting of an appearance bond in an amount to be determined by the Court. Acts 1957, 55th Leg., p. 505, ch. 243, § 39c added Acts 1963, 58th Leg., p. 1369, ch. 522, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 5547—39d. Trial of Appeals

The appeal from the County Court shall be by trial de novo in the District Court in the same manner as cases appealed from the Justice Court to the County Court. The substantial evidence rule shall not apply. Upon demand by the proposed patient, the trial shall be before a jury, otherwise the trial shall be before the Court without a jury. Such cases shall be advanced on the docket and shall be given a preference setting over all other cases. Acts 1957, 55th Leg., p. 505, ch. 243, § 39d added Acts 1963, 58th Leg., p. 1369, ch. 522, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

PART 3. INDEFINITE COMMITMENT

Art. 5547—49. Hearing on the Petition

(a) The County Judge may hold the hearing on the Petition at any suitable place within the county. The hearing should be held in a physical setting not likely to have a harmful effect on the mental condition of the proposed patient in the event he is present.

(b) The proposed patient is not required to be present at the hearing, but he shall not be denied the right to be present.

(c) The Court may exclude all persons not having a legitimate interest in the proceedings, provided the consent of the proposed patient first shall have been obtained.

(d) At least two (2) physicians who have examined the proposed patient within the fifteen (15) days immediately preceding the hearing shall testify at the hearing.

(e) If a waiver of trial by jury is filed and no jury is demanded, the hearing shall be before the Court without a jury; otherwise the hearing shall be before a jury. As amended Acts 1963, 58th Leg., p. 1369, ch. 522, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 93—MARKETS AND WAREHOUSES**CHAPTER THREE—MARKETS AND WAREHOUSE CORPORATIONS****Art. 5578. Application for charter**

Exemption of persons doing business as markets and warehouse corporation from provisions of the Texas Regulatory Loan Act, see art. 6165b, § 6.

CHAPTER SIX—PUBLIC WEIGHER**Art. 5682. Recommendation for appointment**

No man shall be appointed as such weigher unless he shall receive the endorsement of the senator and a majority of the representatives from the senatorial district where such appointee would hold such office. This Article shall not apply to Galveston County. As amended Acts 1962, 58th Leg., p. 912, ch. 344, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 94—MILITIA—SOLDIERS, SAILORS AND MARINES

Chap.	Art.
3. National Guard [New]	5780
3A. National Guard—Miscellaneous Provisions [New]	5890d

Chapter 3, Title 94, of the Revised Civil Statutes, 1925, consisting of articles 5780–5890c, relating to the National Guard, National Guard Armory Board, veterans affairs and the Code of Military Justice, was amended and revised by Acts 1963, 58th Leg., p. 209, ch. 112, to consist of articles 5780–5789, as herein set out.

DISPOSITION TABLE

Showing where provisions of former articles of chapter three are now covered in articles 5780 to 5789, as enacted by Acts 1963, 58th Leg., p. 209, ch. 112.

Former Articles	New Articles and Sections	Former Articles	New Articles and Sections	Former Articles	New Articles and Sections
5780	5780, sec. 1	5815	—	5854	5784, sec. 5
5781	5780, sec. 2	5816	—	5855	5784, sec. 6
5782	5780, sec. 3	5817	—	5856	5784, sec. 7
5783	5780, sec. 4	5818	—	5857	5784, sec. 8
5784	5780, sec. 5	5819	—	5858	5785
5785	—	5820	—	5859	—
5786	5780, sec. 6	5821	5785	5860	—
5787	5781, sec. 1(a)	5822	—	5861	—
5788	5781, sec. 2	5823	5782, sec. 6	5862	—
5789	5781, sec. 3	5824	5782, sec. 5	5863	—
5790	5781, sec. 4	5825	—	5864	5788, sec. 1107(d)
5790a	5781, sec. 5	5826	—	5865	—
5791	5781, sec. 6	5827	5782, sec. 7	5866	5788, sec. 1112(a)
5792	5781, sec. 7	5828	—	5867	5788, sec. 1112(b)
5793	5781, sec. 8	5829	5782, sec. 8	5868	5788, sec. 1112(c)
5794	5781, sec. 9	5830	5783, sec. 1	5869	—
5795	5781, sec. 10	5831	5783, sec. 2	5870	5788, sec. 1112(d)
5796	5781, sec. 11	5832	5783, sec. 3	5871	5788, sec. 1113(a)
5796a	5781, sec. 12	5833	5783, sec. 4	5872	5788, sec. 1113(b)
5797	5781, sec. 13	5834	5783, sec. 5	5873	5788, sec. 1113(c)
5798	5781, sec. 14	5835	5783, sec. 6	5874	5788, sec. 1113(d)
5798a (repealed)	—	5836	5783, sec. 7	5875	5788, sec. 1113(e)
5798a-1 (repealed)	—	5837	—	5876	—
5798a-2	5787, sec. 1	5837a	—	5877	5788, sec. 1106(b)
5798a-3	5787, sec. 2	5837b	—	5878	5788, sec. 1108(c)
5798a-4	5787, sec. 3	5838	5783, sec. 8	5879	5788, sec. 1108(a)
5799	—	5839 (repealed)	—	5880	5788, sec. 1108(b)
5800	5782, sec. 1	5840	5783, sec. 9(a)	5881	5788, sec. 1113(f)
5801	5782, sec. 2	5841	—	5882	5788, sec. 1110
5802	—	5842	—	5883	5788, sec. 1109
5803	—	5843	—	5884	5786, sec. 1
5804	—	5844	—	5885	5786, sec. 2
5805	—	5845	5783, sec. 10	5886	5786, sec. 3
5806	5785	5845a	5783, sec. 11	5887	—
5807	5782, sec. 3	5846	5783, sec. 12	5888	5786, sec. 4
5808	—	5847	5783, sec. 13(a)	5889	5786, sec. 5
5809	—	5848	—	5890	5786, sec. 6
5810	—	5849	—	5890a (repealed)	—
5811	—	5850	5784, sec. 1	5890b	5786, sec. 7
5812	—	5851	5784, sec. 2	5890c	5786, sec. 8
5813	—	5852	5784, sec. 3	5891 (repealed)	—
5814	5782, sec. 4	5853	5784, sec. 4		

DERIVATION TABLE

Showing articles 5780 to 5789, as enacted by Acts 1963, 58th Leg., p. 209, ch. 112, and the parallel former articles of chapter three.

New Articles and Sections	Former Articles	New Articles and Sections	Former Articles	New Articles and Sections	Former Articles
5780, sec. 1	5780	5787, sec. 1	5798a-2	5788, sec. 802	—
5780, sec. 2	5781	5787, sec. 2	5798a-3	5788, sec. 803	—
5780, sec. 3	5782	5787, sec. 3	5798a-4	5788, sec. 804	—
5780, sec. 4	5783	5788, sec. 101	—	5788, sec. 901	—
5780, sec. 5	5784	5788, sec. 102	—	5788, sec. 902	—
5780, sec. 6	5786	5788, sec. 103	—	5788, sec. 903	—
5781, sec. 1	5787	5788, sec. 104	—	5788, sec. 904	—
5781, sec. 2	5788	5788, sec. 105	—	5788, sec. 905	—
5781, sec. 3	5789	5788, sec. 106	—	5788, sec. 906	—
5781, sec. 4	5790	5788, sec. 201	—	5788, sec. 907	—
5781, sec. 5	5790a	5788, sec. 202	—	5788, sec. 908	—
5781, sec. 6	5791	5788, sec. 203	—	5788, sec. 909	—
5781, sec. 7	5792	5788, sec. 204	—	5788, sec. 910	—
5781, sec. 8	5793	5788, sec. 205	—	5788, sec. 911	—
5781, sec. 9	5794	5788, sec. 206	—	5788, sec. 912	—
5781, sec. 10	5795	5788, sec. 207	—	5788, sec. 913	—
5781, sec. 11	5796	5788, sec. 208	—	5788, sec. 914	—
5781, sec. 12	5796a	5788, sec. 301	—	5788, sec. 1001	—
5781, sec. 13	5797	5788, sec. 401	—	5788, sec. 1002	—
5781, sec. 14	5798	5788, sec. 402	—	5788, sec. 1003	—
5782, sec. 1	5800	5788, sec. 403	—	5788, sec. 1004	—
5782, sec. 2	5801	5788, sec. 404	—	5788, sec. 1005	—
5782, sec. 3	5807	5788, sec. 405	—	5788, sec. 1006	—
5782, sec. 4	5814	5788, sec. 406	—	5788, sec. 1007	—
5782, sec. 5	5824	5788, sec. 407	—	5788, sec. 1008	—
5782, sec. 6	5823	5788, sec. 408	—	5788, sec. 1009	—
5782, sec. 7	5827	5788, sec. 501	—	5788, sec. 1010	—
5782, sec. 8	5829	5788, sec. 502	—	5788, sec. 1011	—
5783, sec. 1	5830	5788, sec. 503	—	5788, sec. 1012	—
5783, sec. 2	5831	5788, sec. 504	—	5788, sec. 1013	—
5783, sec. 3	5832	5788, sec. 505	—	5788, sec. 1014	—
5783, sec. 4	5833	5788, sec. 506	—	5788, sec. 1015	—
5783, sec. 5	5834	5788, sec. 507	—	5788, sec. 1016	—
5783, sec. 6	5835	5788, sec. 508	—	5788, sec. 1017	—
5783, sec. 7	5836	5788, sec. 601	—	5788, sec. 1018	—
5783, sec. 8	5838	5788, sec. 602	—	5788, sec. 1019	—
5783, sec. 9	5840	5788, sec. 603	—	5788, sec. 1020	—
5783, sec. 10	5845	5788, sec. 604	—	5788, sec. 1021	—
5783, sec. 11	5845a	5788, sec. 605	—	5788, sec. 1022	—
5783, sec. 12	5846	5788, sec. 606	—	5788, sec. 1023	—
5783, sec. 13	5847	5788, sec. 701	—	5788, sec. 1024	—
5784, sec. 1	5850	5788, sec. 702	—	5788, sec. 1025	—
5784, sec. 2	5851	5788, sec. 703	—	5788, sec. 1026	—
5784, sec. 3	5852	5788, sec. 704	—	5788, sec. 1027	—
5784, sec. 4	5853	5788, sec. 705	—	5788, sec. 1028	—
5784, sec. 5	5854	5788, sec. 706	—	5788, sec. 1029	—
5784, sec. 6	5855	5788, sec. 707	—	5788, sec. 1030	—
5784, sec. 7	5856	5788, sec. 708	—	5788, sec. 1031	—
5784, sec. 8	5857	5788, sec. 709	—	5788, sec. 1032	—
5785	5806	5788, sec. 710	—	5788, sec. 1033	—
	5821	5788, sec. 711	—	5788, sec. 1034	—
	5853(1)	5788, sec. 712	—	5788, sec. 1035	—
5786, sec. 1	5884	5788, sec. 713	—	5788, sec. 1036	—
5786, sec. 2	5885	5788, sec. 714	—	5788, sec. 1037	—
5786, sec. 3	5886	5788, sec. 715	—	5788, sec. 1038	—
5786, sec. 4	5888	5788, sec. 716	—	5788, sec. 1039	—
5786, sec. 5	5889	5788, sec. 717	—	5788, sec. 1040	—
5786, sec. 6	5890	5788, sec. 718	—	5788, sec. 1041	—
5786, sec. 7	5890b	5788, sec. 719	—	5788, sec. 1042	—
5786, sec. 8	5890c	5788, sec. 801	—	5788, sec. 1043	—

REVISED STATUTES

New Articles and Sections	Former Articles	New Articles and Sections	Former Articles	New Articles and Sections	Former Articles
5788, sec. 1044	—	5788, sec. 1108	5878-5880	5788, sec. 1115	—
5788, sec. 1045	—	5788, sec. 1109	5883	5789, sec. 1	—
5788, sec. 1101	—	5788, sec. 1110	5882	5789, sec. 2	—
5788, sec. 1102	—	5788, sec. 1111	—	5789, sec. 3	—
5788, sec. 1103	—	5788, sec. 1112	5866-5868	5789, sec. 4	—
5788, sec. 1104	—		5870	5789, sec. 5	—
5788, sec. 1105	—	5788, sec. 1113	5871-5875	5789, sec. 6	—
5788, sec. 1106	5877		5881	5789, sec. 7	—
5788, sec. 1107	5864	5788, sec. 1114	—	5789, sec. 8	—

CHAPTER THREE—NATIONAL GUARD

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|---|---|
| <p>Art.
5780. Organization [New].
Sec.
1. Strength.
2. Regulations.
3. Publication.
4. Governor's staff.
5. Bodies corporate.
6. Prohibiting organization.</p> <p>5781. Adjutant General [New].
Sec.
1. Department.
2. Bond.
3. Seal.
4. Powers.
5. Transfer of camps, etc., to National Guard Armory Board; sale or disposal as surplus.
6. Duties.
7. Bids.
8. Regulations and duties.
9. Report to Governor.
10. Assistants.
11. Assistant Adjutants General.
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conform as near as practicable to the organization of the Armed Forces of the United States. He may, at any time for cause deemed good and sufficient by him, muster out of the service or reorganize any portion of the Texas National Guard or the reserve militia, and he shall have full control and authority over all matters touching the military forces of this state, its organization, equipment and discipline.

Publication

Sec. 3. The Governor shall make and publish regulations in accordance with existing military laws, for the government of the military forces of this state, which shall embrace all necessary orders and forms of general character for the performance of all duties incumbent on officers and men in the military service, including the rules for the government of courts-martial; the existing regulations to remain in force until the Governor shall have published such regulations. The Governor shall, as he may see fit from time to time, create new regulations, or amend, modify, or repeal existing regulations.

Governor's staff

Sec. 4. The Governor shall have a staff consisting of the Adjutant General, Assistant Adjutants General and two aides-de-camp, one to be appointed from the Texas Army National Guard, and one to be appointed from the Texas Air National Guard. The Adjutant General and Assistant Adjutants General shall have rank as provided by this law; the aides-de-camp shall have the rank not above the grade of Lt. Colonel, while also serving, and shall be appointed by, and serve during the pleasure of the Governor, provided further, that said aides-de-camp shall not be ineligible from holding any office of emolument, trust or honor within this state, nor shall said aides-de-camp be ineligible from serving as chairman or member of any committee of any political party or organization.

Bodies corporate

Sec. 5. Whenever any military unit is mustered into the State Military Forces of this state by the authority of the Governor, such unit shall, from the date of such muster in, be deemed and be held by law a body corporate and politic, with power under its corporate name to take, purchase, own in fee simple, hold, transfer, mortgage, pledge and convey real or personal property to an amount in value, at the time of its acquisition, of Two Hundred Thousand Dollars (\$200,000), (provided that the natural enhancement in value of any property properly acquired by any such military unit shall not affect the right of such military unit to hold or otherwise handle such property), and with like power under its corporate name to sue and be sued, plead and be impleaded, and to prosecute and defend in the courts of the state or elsewhere; to have and use a common seal of such device as it may adopt, to ordain, establish, alter or amend bylaws for the government and regulation of the military unit affairs not inconsistent with the Constitution and laws of this state and of the United States, and the orders and regulations of the Governor; and generally to do and perform any and all things necessary and proper to be done in carrying out and perfecting the purpose of its organization, of which the officers and in case of a military band, the non-commissioned officers, shall be directors, the senior the president.

Prohibiting organization

Sec. 6. No body of men, other than the regularly organized State Military Forces of this state and the troops of the United States, shall

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associate themselves together as a military company or organization or parade in public with firearms in any city, or town of this state; provided that students in the educational institutions where military science is a prescribed part of the course of instruction, and soldiers honorably discharged from the service of the United States may, with the consent of the Governor, drill and parade with firearms in public. Nothing herein shall be construed to prevent parades by the active militia of any other state as hereinafter provided. Acts 1963, 58th Leg., p. 209, ch. 112, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Former article 5780, as originally enacted by Acts 1905, p. 167, was repealed by Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

Art. 5781. Adjutant General

Department

Section 1. (a) The Adjutant General shall be the head of the Adjutant General's Department and shall have the rank of Major General. He shall be appointed for a term of two (2) years by the Governor, by and with the advice and consent of the Senate, if in session.

(b) To be qualified for appointment as Adjutant General a person must at the time of his appointment be serving as a federally recognized officer, not less than field grade, of the Texas National Guard, must have previously served on active duty or active duty for training with the Army or Air Force and must have completed at least ten (10) years service as a federally recognized commissioned officer with an active unit of the Texas National Guard.

Bond

Sec. 2. The person appointed Adjutant General shall first enter into a bond with two (2) or more good and sufficient sureties payable to and to be approved by the Governor, which bond shall be in the sum of Ten Thousand Dollars (\$10,000), conditioned for the faithful performance of the duties of said office.

Seal

Sec. 3. The device upon the seal of the Adjutant General shall consist of a star of five (5) points with the words, "Office of Adjutant General, State of Texas," around the margin.

Powers

Sec. 4. The Adjutant General shall be in control of the military department of this state and subordinate only to the Governor in matters pertaining to said Department, or the military forces of this state; and he shall perform such duties as the Governor may from time to time entrust to him relative to the military commissions, the military forces, the military stores and supplies, or to other matters respecting military affairs of this state; and he shall conduct the business of the Department in such manner as the Governor shall direct. He shall have the custody and charge of all books, records, papers, furniture, fixtures, and other property relating to his Department, and shall perform as near as practicable, such duties as pertain to the Chiefs of Staff of the Army and Air Force and the Secretaries of the military services, under the regulations and customs of the United States Armed Forces.

For and on behalf of the State of Texas, the Adjutant General is authorized to execute leases or subleases between the State of Texas, as lessee or sublessee, and the Texas National Guard Armory Board, as lessor or sublessor, for any building or buildings and the equipment therein and the

site or sites therefor to be used for armory and other proper purposes, and to renew such leases or subleases from time to time; and the Adjutant General shall not lease or sublease any property for armory purposes in or about any municipality from any person other than the Texas National Guard Armory Board, so long as adequate facilities for such armory purposes in or about such municipality are available for renting from the Texas National Guard Armory Board.

**Transfer of camps, etc., to National Guard Armory Board;
sale or disposal as surplus**

Sec. 5. For and on behalf of the State of Texas, the Adjutant General is authorized to designate and transfer any of the state-owned National Guard camps and all land and improvements, buildings, facilities, and installations and personal property in connection therewith, or any part of the same, to the Texas National Guard Armory Board, either for the purpose of administration thereof or for the purpose of sale or proper disposal otherwise when designated by the Adjutant General as "surplus" or in excess of the needs of the Texas National Guard, its successors or components. The Adjutant General is authorized prior to declaring the above described property as "surplus" and transferring same to the Texas National Guard Armory Board, to remove, sever, dismantle, or exchange any of said property for the use and benefit of the Texas National Guard or its successors.

Duties

Sec. 6. The Adjutant General shall, from time to time, define and prescribe the kind and amount of supplies to be purchased for the military forces of this state, and the duties and powers respecting such purchases; and shall prescribe general regulations for the transportation of the articles of supply from the places of purchase to the several camps, stations or companies, or other necessary places for the safekeeping of such articles, and for the distribution of an adequate and timely supply of the same to the commanders of units, and to such other officers as may, by virtue of such regulations, be entrusted with the same; and shall fix and make reasonable allowance for the store rent and storage necessary for the safekeeping of all military stores and supplies; and shall control and supervise the transportation of troops, munitions of war, equipment, military property, and stores throughout the state.

Bids

Sec. 7. The Adjutant General may prescribe rules and regulations to be observed in the preparation and submission and opening of bids for contracts under his department; and at his discretion may require any bid to be accompanied by a good bond in such penal sum as he deems advisable, conditioned that the bidder will enter into a contract agreeable to the terms of his bid, if the same be awarded to him, within sixty (60) days from the date of the opening of the bids, or otherwise pay the penalty. No bid shall be withdrawn by the bidder within said period of sixty (60) days.

Regulations and duties

Sec. 8. The Adjutant General shall prescribe regulations not inconsistent with the law for the government of his department and the custody, use and preservation of the records and property appertaining to it whether belonging to the state or the United States, such regulations to be operative and in force when promulgated in the form of routine orders or letters of instruction and shall:

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

1. Superintend the preparation of such returns and reports as may be required by the laws of the United States from this state.
2. Keep a register of all officers of the militia of Texas, and keep in his office all records and papers required to be kept and filed therein.
3. Have printed at the expense of the state, when necessary, the military law and regulations of Texas, and distributed to the commissioned officers, sheriffs, clerks and assessors of the counties of Texas at the rate of one (1) copy to each.
4. Issue to each commissioned officer and headquarters one (1) copy of the necessary text books, and of such annual reports concerning the militia as the Governor may direct.
5. Cause to be prepared and issued all necessary blank books, blank forms and notices required to carry into full effect the provisions of this law.

Report to Governor

Sec. 9. He shall report annually to the Governor the following information to be laid before the Legislature.

1. A statement of all moneys received, and disbursed by him since his last annual report.
2. An account of all arms, ammunition, and other military property belonging to this state, or in possession of this state, from what source received, to whom issued, and its present condition, so far as he may be informed.
3. The number, condition and organization of the Texas National Guard and reserve militia.
4. Any suggestions which he may deem of importance to the military interests and conditions of this state, and the perfection of its military organization.

Assistants

Sec. 10. All necessary clerks and employees may be employed and laborers hired by the Adjutant General as may be required to carry on the operations of his Department.

Assistant Adjutants General

Sec. 11. The Governor, on recommendation of the Adjutant General, shall appoint an Assistant Adjutant General for Army and an Assistant Adjutant General for Air. Each shall have the rank of Brigadier General. Each shall remain in office during the pleasure of the Governor, and shall be entitled to all the rights, privileges and immunities granted officers of like rank in the Texas National Guard. Each shall, before entering upon the duties of their office, take and subscribe to the oath of office prescribed for officers of the Texas National Guard, which oaths shall be deposited in the office of the Adjutant General. Each shall aid the Adjutant General by the performance of such duties as may be assigned them. In the case of death, absence, or inability of the Adjutant General to act, the Assistant Adjutant General, senior in rank, shall perform the duties of the Adjutant General. To be qualified for appointment as Assistant Adjutant General a person must at the time of his appointment be serving as a federally recognized officer, not less than field grade, of the Texas National Guard, must have previously served on active duty or active duty for training with the Army or Air Force and must have com-

pleted at least ten (10) years service as a federally recognized commissioned officer with an active unit of the Texas National Guard.

Salary of Adjutant General and Assistant Adjutants General

Sec. 12. That on and after the passage of this Act, the salaries of the Adjutant General and the Assistant Adjutants General shall be the amounts which are designated in line items in the biennial appropriation bill.

To issue certificates

Sec. 13. On the muster in to the State Military Forces of this state of any military unit, the Adjutant General shall issue to such organization, a certificate to the effect that such organization has been duly organized in accordance with the laws and regulations of the Military Forces of this state, and that such organization is entitled to all the rights, powers, privileges and immunities conferred by such laws and regulations. Such certificate shall be in such form as the Adjutant General may prescribe. Such certificate shall be in evidence in all the courts of this state that the organization therein named is duly incorporated.

To purchase stores

Sec. 14. The Adjutant General, after the appropriations are made for that purpose, may purchase and keep ready for use, or issue to the military forces of this state, as the best interests of the service may require, such amount and kind of quartermasters, ordnance, subsistence, medical, signal, engineers, and all other military stores and supplies as shall be necessary; he shall see that all military stores and supplies, both the property of this state and the United States, are properly cared for and kept in good order, ready for use; and all accounts which may accrue against this state under the provisions of this Chapter shall, if correct, be certified and approved by the Adjutant General and paid out of the State Treasury as other claims are paid. Any military stores belonging to this state which may become unserviceable, obsolete, or unfit for further use, may be disposed of in such manner as the Governor or Adjutant General may prescribe by regulations or order; and the Adjutant General may sell or destroy as he may see fit for the best interests of the service, any unserviceable, or obsolete, or unsuitable military stores belonging to this state, the sums realized from the sale thereof to be turned into the State Treasury, or he may in his discretion, exchange such stores for such other military stores as the interest of the service may require, for the use of the State Military Forces of this state. Acts 1963, 58th Leg., p. 209, ch. 112, § 1.

Former article 5781, as originally enacted by Acts 1905, p. 167, was repealed by Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

Levy and collection of poll tax, see V.A. T.S. Tax-Gen. art. 2.01.

False statements to procure poll tax receipt or exemption certificate, see Vernon's Ann.P.C. art. 200a.

Poll tax exemption, see V.A.T.S. Election Code, art. 5.09.

Art. 5782. Commissioned Officers and Enlisted Men

Term

Section 1. All officers of the National Guard of Texas shall be appointed and commissioned by the Governor, must be citizens of Texas and the United States, shall take and subscribe the official oath and shall otherwise be qualified for such appointment under current laws and regulations of the United States. Such officers shall hold their positions until they shall have reached the age of sixty-four (64) years, unless sooner dis-

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

charged or retired by reason of resignations, administrative regulations, individual application, disability or for cause to be determined by a court-martial or an efficiency board legally convened for that purpose.

Commissions

Sec. 2. All commissions in the military service of this state shall be in the name and by authority of the State of Texas, sealed with the state seal, signed by the Governor and attested by the Secretary of State, and recorded by the Adjutant General in a record book kept in his office for that purpose. No fee for issuing such commissions shall be charged or collected.

Brevet commissions

Sec. 3. The Governor may, upon the recommendation of their commanding officers, confer brevet commissions of a grade higher than the ordinary or brevet commissions ever held by them, upon the officers of the military service of this state for gallant conduct, or meritorious state military service of not less than twenty-five (25) years. He may also confer upon officers in active service in the military service of this state, who have previously served in the Forces of the United States in time of war, brevet commissions of a grade equal to the highest grade in which they previously served. Such commissions shall carry with them only such privileges or rights as are allowed in like cases in the military service of the United States.

Company funds

Sec. 4. The commanding officer of each company shall be the custodian of the company fund, and shall receive, safely keep, and properly disburse, as may be required by the Governor, all money that may be entrusted to his care, and to render on June 30 and December 31 of each year, to the Adjutant General, an itemized statement of all money by him received and disbursed for the preceding six (6) months.

Enlistments, Federal Laws and Regulations applicable

Sec. 5. The terms of and requirements for enlistments and the qualifications for enlistment in the Texas National Guard shall be that prescribed by the laws of the United States.

Disqualifications

Sec. 6. No minor shall be enlisted without the written consent of his parents or guardian. One who has been expelled or dishonorably discharged from military service of this state or of the United States shall not be eligible for enlistment or re-enlistment, unless he produces the written consent to such enlistment of the commanding officer of the organization from which he was expelled or dishonorably discharged, and of the commanding officer of the organization who approved such expulsion or issued such dishonorable discharge.

Second lieutenants

Sec. 7. The Governor may appoint and commission enlisted men, who have served well and faithfully in the State Military Forces of this state for a period of not less than twenty-five (25) years, without examination, second lieutenants by brevet; provided, such enlisted men, so appointed and commissioned, shall be immediately placed on the retired list.

Assignment of pay

Sec. 8. No assignment of pay by any officer or an enlisted man shall be valid, except as otherwise provided by the Governor. Acts 1963, 58th Leg., p. 209, ch. 112, § 1.

Former article 5782, as originally enacted by Acts 1905, p. 167, was repealed by Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

Art. 5783. Service and Duties**Governor may call**

Section 1. When an invasion of, or an insurrection in, this state is made or threatened, or when the Governor may deem it necessary for the enforcement of the laws of this state, he shall call forth the State Military Forces or any part thereof, to repel, suppress, or enforce the same, and if the number available is insufficient, he shall order out such part of the reserve militia as he may deem necessary.

Impending riot

Sec. 2. When there is in any county, city or town in this state tumult, riot or body of men acting together by force with intent to commit felony, or breach of the peace, or to do violence to person or property, or by force to break or resist the laws of this state, or when such tumult, riot, mob or other unlawful act or violence is threatened and that fact is made to appear to the Governor, he may issue his order to any commander of a unit of the State Military Forces of this state to appear at the time and place directed, to aid the civil authorities to suppress or prevent such violence and in executing the laws, provided, whenever the necessity for military aid in preventing or suppressing such violence is immediate and urgent, and when it is impracticable to furnish such information to the Governor in time to secure military aid by his order, the district judge of the judicial district in which the disturbance occurs, or the sheriff of such county, or the mayor of such city or town may call in writing for aid upon the commanding officer of the State Military Forces stationed therein, or adjacent thereto; and the civil officer making the call shall at once notify the Governor of his action.

Mobilization order

Sec. 3. The officer to whom the order of the Governor, or the call of the civil authority, is directed shall, upon its receipt, forthwith order his command, or such portion thereof as may be ordered or called for, to parade at the time and place appointed, and shall immediately notify the Governor of his action.

Commanding officer's duty

Sec. 4. When such troops have appeared at the appointed place, the commanding officer thereof shall obey and execute such general instructions, which shall be in writing, if practicable, otherwise verbal instructions given in the presence of two (2) or more credible witnesses, as he may there and then receive from the civil authorities charged by law with the suppression of riot, or tumult or the preservation of the public peace, but such commanding officer shall exercise his discretion as to the proper method of practically accomplishing the instructions received. The kind and extent of force to be used, and the particular means to be employed to accomplish the object specified by the civil authority shall be left solely to such commanding officer.

State Military Forces

Sec. 5. The Governor may order the State Military Forces, or any part thereof, to assist the civil authorities in guarding prisoners, or in conveying prisoners from and to any point in this state, or discharging other duties in connection with the execution of the law as the public interest or safety at any time may require.

Sale of arms

Sec. 6. Whenever any part of the State Military Forces of this state is on active duty pursuant to the order of the Governor, or call of civil authority, to aid in the enforcement of the law, the commanding officer of such troops may order the closing of any place where arms, ammunition, dynamite or other explosives are sold, and forbid the sale, barter, loan or gift of any said article so long as any of the troops remain on duty in such place, or in the vicinity where such place may be located.

Regular training

Sec. 7. Officers and enlisted men of the State Military Forces of this state shall assemble for and undergo drill, instruction, parades, marches and such other training as may be authorized by Title 32, United States Code; provided, however, the Governor of Texas may limit or extend the nature or type of training prescribed therein and may provide for such other training as he may see fit.

Active state service

Sec. 8. The Military Forces of this state, including the Texas State Guard, when called into active service of this state in time of war, insurrection, invasion or imminent danger thereof, or in the prevention thereof, or in preparation against the same, or under any other existing statutory or constitutional authority of this state, shall, during their time of service, be entitled to and shall receive the same pay and allowances, (except money allowances for clothing), as are now or may hereafter be established by the laws for Armed Forces of the United States.

Tax exemptions

Sec. 9. (a) All officers and enlisted men of the State Military Forces of this state, who comply with their military duties as prescribed by this Chapter, shall be entitled to exemption from the payment of all poll taxes, except the poll tax prescribed by the Constitution for the support of the public schools, and exemption from the payment of any road or street tax.

(b) The following affidavit, sworn to before a notary public or other person authorized to administer oaths in the State of Texas, shall be filed in the county tax assessor-collector's office to support exemption prescribed in the preceding subsection:

"I, _____, do hereby solemnly swear or affirm that I am a member in good standing of the State Military Forces of the State of Texas.

Subscribed to and sworn to before me this _____ day of _____ 19____

SEAL

Notary Public in and for _____ County,
Texas"

Disabled men

Sec. 10. (a) Every member of the Military Forces of this state who shall be wounded, disabled or injured, or who shall contract any disease or illness, in line of duty while in the service of this state in case of riot, tumult, breach of the peace, resistance to process, invasion, insurrection, or imminent danger thereof,¹ or whenever called upon in aid of the civil authorities, or when participating in any training formation or activity under order of the commanding officer of his unit, or while traveling to or from his place of duty in such instances, shall be entitled to and shall receive, or be reimbursed for, hospitalization, rehospitalization, and medical and surgical care in a hospital and at his home appropriate for the treatment of such wounding, disability, injury, disease or illness, and necessary transportation incident thereto so long as such wounding, disability, injury, disease or illness exists, and shall receive the same pay and allowance whether in money or in kind, to which he was entitled at the time when the injury was incurred or the disease or illness contracted, during the period of his disability but not for more than a total of twelve (12) months after the end of his tour of duty. In the event of his death in such cases; his estate shall be entitled to any reimbursement for which the deceased would have been entitled and to his accrued pay and allowances and compensation or reimbursement for actual funeral expenses not to exceed the sum of Five Hundred Dollars (\$500), such compensation or reimbursement, as well as the cost of carrying out the other provisions of this Section, shall be paid out of any funds in the State Treasury available to or appropriated for the use of the Military Forces of this state in the same manner provided for other expenditure of state funds; provided, however, that no compensation or reimbursement shall be paid in any case where the same is payable under the provisions of any federal law or regulation, and the claim results from activity related to the performance of duty or training in compliance with the provisions of federal law or regulations.

(b) The Adjutant General shall administer the provisions of this Act and shall prescribe such rules and regulations not inconsistent with law as may be necessary to carry out the provisions of this Act and the decision as to whether any wounding, disability, injury, disease, illness or death is in line of duty or as a result thereof, shall be made by the Adjutant General after proper investigation and hearing pursuant to such regulations as he may prescribe. Further, the Adjutant General shall have power to make interagency agreements or contracts with any agency of the state government to carry out the provisions of this Act.

¹ So in enrolled bill.

Construction as compensation for services, disabled men

Sec. 11. The provisions of this Act shall in no wise be construed to be a gratuity but shall be construed to be compensation for services for which each member of the Military Forces of this state shall be deemed to have bargained for and considered as a condition of his enlistment and employment.

Transportation, etc.

Sec. 12. When troops of this state are in active state duty status the state shall make suitable provisions for their pay, transportation, subsistence and quarters under such regulations as the Adjutant General may prescribe.

Exempt from arrest

Sec. 13. (a) No person belonging to the Military Forces of this state shall be arrested while going on duty or returning from any place at which he may be required to attend for military duty, except in cases of treason, felony or breach of the peace.

(b) This Article shall not be construed to prevent a peace officer from issuing a traffic summons or citation to appear in court at a subsequent date which shall not conflict with such member of the State Military Forces duty hours. Acts 1963, 58th Leg., p. 209, ch. 112, § 1.

Former article 5783, as originally enacted by Acts 1907, p. 224, was repealed by Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

Art. 5784. Arms, Equipment, Etc.**Private use**

Section 1. No officer or enlisted man of the State Military Forces having property in charge shall lend for private use, or permit to be used for any other purpose than the legitimate purpose intended, any public property that he may be responsible for to the Governor.

Provided by State

Sec. 2. All organizations shall be provided by this state with such arms, equipment, books of instruction and of record and other supplies as may be necessary for the proper performance of the duty required of them by this Chapter. Each organization shall keep such property in proper repair and in good condition.

Warrant for seizure

Sec. 3. Whenever it comes to the knowledge of the Governor, on the affidavit of a credible person, that the persons having arms, equipment, or other military property issued by this state for the use of the military forces of this state without authority of law, fail or refuse to deliver up such property, he shall issue his warrant to the sheriff of the county where such persons may be or reside, commanding such sheriff to seize and take into his possession such arms, equipments, or other military property, and keep the same subject to the further order of the Governor. Any sheriff receiving such warrant shall without delay execute the same as directed, and in executing such warrant he may summon to his aid the power of the county and any command of the State Military Forces of this state that may be convenient.

Sheriff to collect arms

Sec. 4. Each sheriff shall, from time to time, collect such arms or property as may be liable to loss or in the hands of unauthorized persons, and such property when collected shall be kept safely subject to the order of the Governor, to whom a report of such collection shall be made. The official bond of sheriff's shall extend to and include the faithful performance of their duties under this and the preceding Sections.

Exempt from execution

Sec. 5. Arms, equipments, clothing or other military supplies issued by this state to organizations or members of the State Military Forces for military purposes, shall be exempt from levy and sale by virtue of an execution for debt, or any other legal proceedings.

Governor to draw arms

Sec. 6. The Governor in his official capacity is authorized to draw from the United States Government all arms, equipment, munitions, or other military stores to which this state may, from time to time, be entitled, for the use of State Military Forces and may execute such bonds in the name of the state as may be necessary or requisite to secure their issuance.

Storing arms

Sec. 7. The Governor shall cause all arms, equipment, munitions, or other military property belonging to or under the control of this state, to be stored at such points as he may deem to the best interests of this state.

Uniform

Sec. 8. The uniform for officers and enlisted men of the State Military Forces of this state shall be the same as that prescribed for the Armed Forces of the United States, with such modifications as the Governor may deem necessary from time to time. All uniforms and other military property issued by this state shall be used for military purposes only, and when issued shall be receipted for, and kept and accounted for in such manner as the Adjutant General may prescribe. Acts 1963, 58th Leg., p. 209, ch. 112, § 1.

Former article 5784, as originally enacted by Acts 1907, p. 224, was repealed by Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

Art. 5785. Oaths

Those who are appointed, enlisted, or drafted in the active militia or State Military Forces shall take and subscribe an oath in the following form:

"I, _____, do solemnly swear that I will bear true faith and allegiance to the State of Texas and to the United States of America; that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the Governor of Texas, and the orders of the officers appointed over me, according to the laws, rules and articles for the government of the Military Forces of the State of Texas." Acts 1963, 58th Leg., p. 209, ch. 112, § 1.

Former article 5785, as originally enacted by Acts 1905, p. 167, was repealed by Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

Art. 5786. General Provisions**Change of venue**

Section 1. Any officer or member of the Military Forces of this state, who is sued for any injury to persons or property done while performing, or endeavoring to perform, any duty required of him by this law, shall have the right, and the court in which suit is pending, upon the application of the person sued, shall remove the venue of such cause to some court of competent jurisdiction in another county not subject to the same or some other disqualification; provided, such application is supported by the affidavit of two credible persons to the effect that they have good reason to believe that the defendant cannot have a fair and impartial trial before such court.

Change of venue granted on application, see Vernon's Texas Rules of Civil Procedure, Rule 257.

Venue, transient persons, see art. 1995, subd. 2.

Assistance

Sec. 2. Each Commissioners Court and the council or commission of each city or town in this state is hereby authorized in their discretion, to appropriate a sufficient sum, not otherwise appropriated, to pay the necessary expenses of the administrative units of the National Guard of this state located in their respective counties and in or near their respective cities or towns; not to exceed the sum of One Hundred Dollars (\$100) per month for such expenses from any one such court, council or commission for any one organization; and in addition, in behalf of their respective counties, cities or towns, to donate, either in fee simple or otherwise, to the Texas National Guard Armory Board, or to any one or more of said units for conveyance to said Board, one or more tracts of land as sites upon which to construct armories and other buildings suitable for use by such units; and any and all such donations heretofore made to said Board are hereby validated and any such donation heretofore made to any such administrative unit, either as a corporation or otherwise, and conveyed or to be conveyed to said Board, is hereby validated. Administrative unit as referred to in this Section means a company or squadron size organization or a separately administered or located platoon or flight.

Right of way on street

Sec. 3. The commanding officer of any portion of the State Military Forces of this state, parading or performing any military duty in any street or highway, may require any or all persons in such street or highway to yield the right-of-way to such State Military Forces; provided, that the carriage of the United States mails, the legitimate functions of the police and the progress and operations of hospital ambulances, fire engines and fire departments shall not be interfered with thereby.

Gambling, etc.

Sec. 4. The commanding officer upon any occasion of duty may place in arrest, during the continuance thereof, any person who shall trespass upon the camp ground, parade ground, armory or other place devoted to such duty, or shall in any way or manner interrupt or molest the orderly discharge of duty by those under arms, or shall disturb or prevent the passage of troops going to and returning from any duty. He may prohibit and prevent the holding of huckster or auction sales, and all gambling within the limit of the post, camp ground, place of encampment, parade, or drill under his command. And he may, in his discretion, abate as a common nuisance all such sales.

Insurrection

Sec. 5. Whenever any portion of the military forces of this state is employed in aid of the civil authority, the Governor, if in his judgment the maintenance of law and order will thereby be promoted may, by proclamation, declare the county or city in which the troops are serving, or any special portion thereof, to be in a state of insurrection.

Foreign troops

Sec. 6. No armed military force from another state, territory or district shall be permitted to enter this state without the permission of the Governor, unless such force is a part of the United States Armed Forces.

National Guard Armory Board.

Sec. 7. (a) There is hereby created the Texas National Guard Armory Board to be composed of the Commanding General of the 36th Infantry Division, Texas National Guard or its successor, the Commanding General of the 49th Armored Division, Texas National Guard, or its successor, and the senior officer of the Texas Air National Guard, or its successor; provided, however, that when an officer holding one of the three positions named above ceases to hold such position he will create a vacancy on the Board. The Board shall be composed of three (3) members and the term of office for members of the Texas National Guard Armory Board shall be of six (6) years duration except that an appointment to fill a vacancy for an unexpired term shall be for the duration of the unexpired term. Each officer of the Texas National Guard or the Texas Air National Guard who may thereafter fill the position qualifying him for membership on the Texas National Guard Armory Board, as provided in this Act, shall be certified by the Adjutant General of Texas to the Secretary of State, and to the officer concerned within ten (10) days after the occurrence of a vacancy. Each member of the Texas National Guard Armory Board shall, within fifteen (15) days from the date of his receipt of notice of his eligibility to serve to fill a vacancy, qualify by taking and filing with the Secretary of State the Constitutional Oath of Office.

The senior and junior in military rank, of the members of said Board shall be, respectively, chairman and treasurer thereof, and the persons holding such offices shall change as military rank may determine when changes in membership of said Board occur.

The Board shall act by resolution adopted at a meeting thereof, and held in accordance with its bylaws and rules and regulations. A simple majority of the abovenamed members of the Board shall constitute a quorum for the transaction of business at all meetings, and any action taken by a majority of the members of the Board present at any meeting thereof shall be deemed to be the action of the Board for all purposes.

It shall be the duty of the Board to select a place for the headquarters of said Board and such place of headquarters may be changed from time to time, as the majority of said Board may determine, provided, however, that such headquarters shall be in Travis County.

(b) The Board hereby created shall be and it is hereby constituted a body politic and corporate. It shall succeed to the ownership of all property of, and all lease and rental contracts entered into by the Texas National Guard Armory Board that was created by prior statutes and all of the obligations contracted or assumed by the last mentioned Board with respect to any such property and contracts shall be the obligations of the Board created by this Act. With this exception, no obligation of said former Board shall be binding upon the Board hereby created. It shall be the duty of said Board to have charge of the acquisition, construction, rental, control, maintenance and operation of all Texas National Guard Armories, including stables, garages, rifle ranges, hangars, and all other property and equipment necessary or useful in connection therewith, and the said Board shall possess all powers necessary and convenient for the accomplishment of such duty, including, but without being limited thereto, the following express powers:

(1) To sue and be sued.

(2) To enter into contracts in connection with any matter within the objects, purposes or duties of the Board. It shall be the duty of the State

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Board of Control of the State of Texas to, for and on behalf of the said Armory Board, supervise the taking and tabulation of bids for work approved for bids by the said Armory Board and the construction under contracts executed by said Armory Board and the purchase of furniture and equipment such as is desired by the said Armory Board.

(3) To have and use a corporate seal.

(4) To appoint, employ and pay and dismiss an executive secretary, and also such other officials, counsel, lawyers, agents and employees as may be necessary to carry out the objects, purposes and duties of the Board, and to prescribe their duties and fix their compensation.

(5) To adopt, and from time to time to change or amend, all necessary bylaws, rules and regulations for the conduct of the business and affairs of the Board.

(6) To acquire, by gift or purchase, for use as building sites or for any other purposes deemed by said Board to be necessary or desirable in connection with or for use of units of the Texas National Guard, property of any and every description, whether real, personal or mixed, including, but without limitation on the foregoing, leasehold estates in real property, and hold, maintain, sublease, convey and exchange such property, in whole or in part, and/or pledge the rents, issues and profits thereof in whole or in part; also, to acquire, by gift or purchase, or by construction of the same, furniture and equipment suitable for Armory purposes and to hold, maintain, sublease, convey, and exchange such furniture, and equipment, in whole or in part.

(7) To construct buildings on any of its real property, whether held in fee simple or otherwise, and to furnish and equip the same and to hold, manage and maintain all of said property and to lease to the State of Texas, in the same manner as hereinafter provided with respect to other property, the buildings, and the sites thereon situated, which it may construct at Camp Mabry, Camp Hulen and Camp Wolters, and to lease and sublease, convey and exchange, in whole or in part, all of its property not located in either of said camps, and/or to pledge the rents, issues and profits of all of said property, wherever located, in whole or in part; provided, however, that before any building is constructed by said Board on the lands comprising either of said camps, the site therefor, in maximum area two hundred thousand (200,000) square feet, shall, promptly on said Board's request therefor to the said Adjutant General, be selected and described by a Board of Officers appointed from time to time for the purpose by the said Adjutant General, and such description shall be certified to said Armory Board and a copy thereof shall be furnished to and preserved in the office of said Adjutant General; and provided further, that when so selected and described and constructed upon, such sites shall be and become the property of the said Armory Board, for all the purposes contemplated by the Act of which this Section is a part, as fully and absolutely as if the same had been acquired by a gift to or purchase by said Armory Board.

All such property, together with the rents, issues and profits thereof shall be exempt from taxation by the State of Texas or by any municipal corporation, county or other political subdivision or taxing district of this state.

(8) From time to time, to borrow money, and to issue and sell bonds, debentures and other evidences of indebtedness for the purpose of acquiring one or more building sites and buildings, and for the purpose of constructing, remodeling, repairing and equipping one or more buildings,

such bonds, debentures, or other evidences of indebtedness to be fully negotiable and to be secured as follows: By a pledge of, and payable solely from, the rents, issues and profits of all of the property of the Board; of the property acquired or constructed by the Board, in whole or in part, with the proceeds of the borrowing transactions. Provided, however, that interest falling due within twenty-four (24) months after the issuance and sale of any particular bonds, debentures, or other evidences of indebtedness, or any series thereof, may be paid out of the proceeds of the sale thereof. Any such bonds, debentures or other evidences of indebtedness may be issued in series, and if so issued, all series thereof issued under or secured by the same trust indenture of trust agreement, shall rank equally, without preference or priority of one series over another, whether by reason of the date of issue or negotiation thereof or date of maturity thereof or for any other reason. All such bonds, debentures, or other evidences of indebtedness and the interest thereon, shall be exempt from taxation (except inheritance taxes) by the State of Texas or by any municipal corporation, county or political subdivision or taxing district of the state. All bonds, debentures or other evidences of indebtedness authorized and issued under authority of this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State of Texas including, but not limited to, the permanent free school fund, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds, debentures, or other evidences of indebtedness, shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds, debentures, or other evidences of indebtedness shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Said bonds, debentures, or other evidences of indebtedness may be sold by the Board in any manner it may determine; provided that no bonds, debentures, or other evidences of indebtedness shall be issued and sold at a price which will be such that the interest costs of the money received by the Board from the sale thereof will exceed six per cent (6%) per annum, computed to maturity according to standard tables of bond values, and provided further, that no bonds, debentures or other evidences of indebtedness shall be sold unless and until same shall have been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts. The Board shall have power from time to time to execute and deliver trust deeds and trust agreements whereunder any bank or trust company authorized by the laws of the state or of the United States of America to accept and execute trusts in the state, or any individual selected by the Board, may be named and act as Trustee. Any such trust deed or trust agreement shall be signed in the name and on behalf of the Board by the chairman of the Board and countersigned by the treasurer thereof and the corporate seal of the Board shall be thereto affixed and such seal attested by the secretary of the Board; and any such trust deed or trust agreement may, if it name such bank or trust company to act as Trustee, contain provisions for the deposit with the Trustee thereunder and the disbursement by such Trustee of the proceeds of the bonds, debentures or other evidences of indebtedness issued thereunder or secured thereby, and/or the rents, issues and profits of all property acquired or constructed out of such proceeds, and whether or not such bank or trust

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company be named as Trustee, may also contain such provisions for the protection and enforcement of the rights and remedies of the Trustee and the holders of such bonds, debentures, or other evidence of indebtedness as the Board may approve, including provisions for the acceleration of the maturity of any such bonds, debentures or other evidences of indebtedness upon default by the Board in the performance or observance of any of the covenants or provisions of such bonds, debentures or other evidences of indebtedness or of the trust deed or trust agreement whereunder the same are issued or secured. Any such trust deed or trust agreement shall provide that all bonds, debentures or other evidences of indebtedness issued at any time thereunder shall be equally secured thereby but any such trust deed or trust agreement may contain and impose upon the Board limitations and conditions governing the right of the Board to issue additional bonds, debentures or other evidence of indebtedness. All such bonds, debentures or other evidence of indebtedness shall be signed by the chairman of the Board, countersigned by the treasurer thereof, and the corporate seal of the Board shall be thereto affixed, and such seal attested by the secretary of the Board, and in case any officer of the Board who shall have signed or attested any such bond, debenture or other evidence of indebtedness shall cease to be such officer before such bond, debenture or other evidence of indebtedness shall have been actually issued by the Board, such bond, debenture or other evidence of indebtedness may nevertheless be validly issued by the Board. Such bonds, debentures or other evidence of indebtedness may be issued in fully registered form without interest coupons, or in coupon form registrable as to principal only, or in bearer form with coupons attached. All of coupons shall be authenticated by the facsimile signature of the treasurer of the Board; and

(9) To execute and deliver leases, or subleases in the case of buildings located upon leasehold estates acquired by the Board, demising and leasing to the State of Texas through the Adjutant General, who shall execute the same for said state, for such lawful term as may be determined by the Board, any building or buildings, and the equipment therein and the site or sites therefor, to be used for Armory and other purposes and to renew such leases or subleases from time to time; provided, however, that if at any time the State of Texas shall fail or refuse to pay the rental reserved in any such lease or sublease, or shall fail or refuse to lease or sublease any such building and site, or to renew any existing lease or sublease thereon at the rental provided to be paid, then the Board shall have the power to lease or sublease such building and equipment and the site therefor to any person or entity and upon such terms as the Board may determine. The law requiring notice and competitive bids shall not apply to leasing or subleasing of such property. The annual rental (which may be made payable in such installments as the Board shall determine) to be charged the State of Texas for the use of such property leased or subleased to it by the Board shall be sufficient to provide for the operation and maintenance of the property so leased or subleased, to pay the interest on the bonds, debentures or other evidences of indebtedness, if any, issued for the purpose of acquiring, constructing or equipping such property, to provide for the retirement of such bonds, debentures or other evidences of indebtedness, if any, and the payment of the expenses incident to the issuance thereof, as well as the necessary and proper expense of the Board not otherwise provided for.

(c) As and when any of the property owned by the Board shall be fully paid for, free of all liens, and all debts and other obligations incurred in connection with the acquisition or construction of such property have

been fully paid, the Board may donate, transfer, and convey such property, by appropriate instruments of transfer, to the State of Texas, and such instruments of transfer and conveyance shall be kept in the custody of the Adjutant General's Department.

(d) The Board shall cause to be kept accurate minutes of its meetings, and accurate records and books of account in conformity with approved methods of bookkeeping, clearly reflecting the income and expenses of the Board and all transactions in relation to its property. In the execution and administration of objects and purposes herein set forth, the Board shall have power to adopt means and methods reasonably calculated to accomplish such objects and purposes and this Act shall be construed liberally in order to effectuate such objects and purposes.

(e) The Board shall be authorized to receive from the Adjutant General state-owned National Guard Camps and all land and improvements, buildings, facilities, installations, and personal property in connection therewith and administer the same or transfer it to the Board of Control for sale, or make proper disposal of such property otherwise when designated by the Adjutant General as "surplus" and when directed by him as being in the best interest of the Texas National Guard, its successors or components. The Armory Board and the Board of Control are further authorized to remove, dismantle, and sever, or authorize the removal, dismantling, and severance of any of said property to accomplish the above purposes. All of such property so designated for sale, shall, when transferred by the Armory Board, be sold by the Board of Control to the highest bidder for cash and in the manner provided by law for the sale of property belonging to the state which is no longer needed, and all funds received from such sale shall be deposited in the State Treasury to the credit of the Texas National Guard Armory Board for the use and benefit of the Texas National Guard or their successors or components; provided, however, that none of these funds may be expended except by legislative appropriation.

(f) Any sale or deed made pursuant to the terms of this Act shall reserve unto the State of Texas a one-sixteenth ($\frac{1}{16}$ th) mineral interest free of cost of production, provided, however, the Board shall be authorized to re-convey on a negotiated basis to the original donors all rights, title, and interests including mineral interests to property and improvements provided another suitable site in the same town or county has been deeded to the Board for the construction of an armory.

**Bonds, debentures, etc., of Texas National Guard Armory
Board as legal and authorized investments**

Sec. 8. All bonds, debentures, or other evidences of indebtedness authorized and issued by the Texas National Guard Armory Board, under authority of Senate Bill No. 326, passed at the Regular Session of the 46th Legislature of Texas and approved May 1, 1939, and laws amendatory thereof,¹ shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State of Texas including, but not limited to, the permanent free school fund, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations, or subdivisions of the State of Texas. Such bonds, debentures, or other evidences of indebtedness shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political cor-

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porations or subdivisions of the State of Texas; and such bonds, debentures or other evidences of indebtedness shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto. Acts 1963, 58th Leg., p. 209, ch. 112, § 1.

¹ See, now, section 7 of this article.

Former article 5786, as originally enacted Refunding bonds of National Guard by Acts 1905, p. 167, was repealed by Acts Armory Board, see art. 5890d. 1963, 58th Leg., p. 209, ch. 112, § 3.

Art. 5787. Veterans County Service Office

Veterans County Service Office

Section 1. (a) Creation, maintenance, salaries. The office of Veterans County Service Office is hereby created. When the Commissioners Court of a county shall determine that such an office is a public necessity in order that those residents of a county who have served in the armed forces may promptly properly and rightfully obtain the benefits to which they are entitled, it shall, by a majority vote of the full membership thereof, maintain and operate such an office and shall appoint a Veterans County Service Officer and such Assistant Veterans County Service Officers as shall be deemed necessary by the county Commissioners Court. Such Veterans County Service Officer and/or Assistant Veterans County Service Officers, shall receive a salary fixed by the county Commissioners Court, to be paid in equal monthly installments out of the general funds of the county and all salaries and travel expense, including all necessary expenses in connection with attendance of Service Officers schools and conferences of such Veterans County Service Officer and/or Assistant Veterans County Service Officers and all salaries of the personnel of such office and other expenses of such office shall be paid on order of the Commissioners Court; provided, however, that no salary paid to any such Veterans County Service Officer shall exceed the sum of Four Hundred and Seventy-five Dollars (\$475) per month and no salary paid to any such Assistant Veterans County Service Officer shall exceed the sum of Three Hundred and Fifty Dollars (\$350) per month; and provided further, that the population of the county, and the number of ex-service men and women in the county, shall definitely be taken into account in fixing the salary of the Veterans County Service Officer, and such Assistant Veterans County Service Officers as may be appointed.

(b) Appointment of officers, term, qualifications. Such Veterans County Service Officer and/or Assistant Veterans County Service Officers, shall, if so appointed, serve for the remainder of the current county fiscal year during which they are appointed and thereafter shall be appointed for, and serve for, a term of two (2) years, unless sooner removed for cause by the appointing authority. Such Veterans County Service Officer and such Assistant Veterans County Service Officer shall be qualified by education and training for the duties of such office. They shall be experienced in the law, regulations, and rulings of the United States Veterans Administration controlling cases before them, and shall themselves have served in the active Military, Naval or other Armed Forces or Nurses Corps of the United States or Canada during the Spanish American War, World War I, World War II, or the Korean War (commonly referred to as the Korean Conflict or the Korean Police Action) for a period of at least four (4) months, and have been honorably discharged from such service, or a widowed Gold Star Mother or un-remarried widow of a serviceman or veteran whose death resulted from service, and shall have been given a certificate of approval by the Veterans Affairs Commission, and/or a letter of

approval from the State Commander of a veterans organization chartered by Congress; provided however, that lack of such certificate or letter shall not disqualify a person otherwise qualified. A statement showing that applicant possesses the above necessary qualifications shall be filed with the county Commissioners Court at or before the time said appointments are made, and the filing thereof shall be a condition precedent to such appointment.

(c) **Duties, fees forbidden.** The duty of the Veterans County Service Officer and/or the Assistant Veterans County Service Officer shall be to aid all residents of the county and/or counties providing for such officers who served in the Military, Naval, or other Armed Forces or Nurses Corps of the United States during any war or peacetime enlistment, and/or veterans and/or orphans and/or dependents in preparing, submitting and presenting any claim against the United States or any state, for compensation, hospitalization, insurance or other item or benefits to which they may be entitled under the existing laws of the United States, or of any state, or such laws as may hereafter be enacted, pertinent thereto. It shall also be their duty to defeat all unjust claims that may come to their attention. No fees, either directly or indirectly, for any service rendered by such Veterans County Service Officer and/or Assistant County Service Officer shall be charged of applicant, nor shall they permit the payment of any fee by applicant to any third person for services that might be rendered by them, nor seek to influence the execution of a power of attorney to one national service organization over that of another.

(d) **Entry into records of institutions.** Said officers shall be given official entry into records of the eleemosynary and penal institutions of the State of Texas under the rules and regulations of the Board of Control governing eleemosynary institutions, and under the rules and regulations of the Texas Department of Corrections governing the Texas Prison System, for the purpose of determining the status of any person confined therein in regard to any benefit to which such person may be entitled.

(e) **Joint employment by two or more counties.** The Commissioners Court of any county may make an arrangement or agreement with one or more other contiguous counties whereby all such counties, parties to the arrangement or agreement, may jointly employ and compensate a Veterans County Service Officer under the provisions of this Act, in which event the amount of compensation which would be paid by each such county under said agreement and the travel and such other miscellaneous expenses authorized by the Commissioners Court which would be paid by each such county under said agreement, shall be expressly stipulated in said agreement and said office shall be established and said arrangement and agreement entered into and such officers appointed and employed by a majority vote of the full membership of the county Commissioners Court of the respective counties who are parties to said arrangement and agreement.

**Veterans education; State Treasurer authorized to accept
funds from Veterans Administration; disposition**

Sec. 2. Pursuant to and in compliance with Public Law 679, 79th Congress, to authorize the Veterans Administration, to reimburse state and local agencies for expenses incurred in rendering services in connection with the administration of certain training programs for veterans and for other purposes, the State Treasurer of the State of Texas is hereby authorized to accept such funds or moneys as may be tendered or granted by the Veterans Administration to the Adjutant General of the State of Texas for the use and benefit of the State Approval Agency for Veterans

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Education under Public Law 346 for salaries and traveling expense of supervisors, inspectors, and secretarial or administrative help, or for such other expenses as may be necessary in establishing the training program for veterans of World War II. When such funds or moneys are received by the State Treasurer, he shall deposit same to the credit of the State Approval Agency for Veterans Education under Public Law 346, Account in the General Revenue Fund of the state. In order that the Director, State Approval Agency for Veterans Education under Public Law 346, may establish the training program immediately, there is hereby appropriated out of the General Revenue Fund of the State of Texas not otherwise appropriated the sum of Fifty-five Thousand Dollars (\$55,000) to the Adjutant General for the use and benefit of the Director, State Approval Agency for Veterans Education under Public Law 346; and in addition thereto, any and all of such funds or moneys as may be received and deposited in the State Treasury from the Veterans Administration are hereby appropriated to the Adjutant General's Department for the use and benefit of the Director, State Approval Agency for Veterans Education under Public Law 346, for the specific purpose authorized by and under Public Law 679, 79th Congress. Any balance of the Fifty-five Thousand Dollars (\$55,000) herein appropriated at the end of the term for which the Veterans Administration program exists shall revert to the General Revenue of the State of Texas. Any and all moneys appropriated hereunder shall be disbursed in compliance with the same rules, riders and limitations as control the disbursement of funds under the current Departmental Appropriation Bill.

Veterans Affairs Commission

Sec. 3. (a) Declaration of purpose: It is hereby declared that the purpose of this Act is to take care of the tremendous increase in veterans population in the State of Texas, which has resulted from the Spanish-American War, World War I, World War II and other wars in which residents of the state have participated, by giving proper care and assistance to Texas veterans of all wars.

(b) Creation, membership: There is hereby created and established by this Act, a Veterans Affairs Commission of the State of Texas. The Commission shall be composed of five (5) members who shall be appointed by the Governor, with the advice, consent and confirmation of the Senate. The members of the Commission and all male personnel are to be veterans of the Spanish-American War, World War I, World War II, or of other wars in which the United States participated. They shall have received honorable discharges from the service of the United States; shall be citizens and bona fide residents of the State of Texas, and at least three (3) members of the Commission shall have been finally separated from the service under honorable conditions as an enlisted man. No two (2) members of the Commission shall reside in the same Senatorial District, and not more than one (1) shall be from a Senatorial District composed of one (1) county. The Commission shall continue in office, as designated by the Governor at the time of appointment, through the last day of the second, fourth and sixth calendar years respectively following the effective date of this Act. The successors of members initially appointed shall be appointed for terms of six (6) years in the same manner as the members originally appointed under this Act, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. Each member shall serve without pay, except he shall be paid the sum of Ten Dollars (\$10) per diem for regular and called

meetings of the Commission and shall be reimbursed for actual and necessary expenses incurred by him and authorized by the Commission.

(c) Duties. It shall be the duty of the Commission to:

(1) Make a compilation of the laws, federal, state and local, enacted for the benefit of members of the Armed Forces; for veterans and their families and dependents; collect data and information as to services and facilities available to veterans; to cooperate with veterans service agencies throughout the state; to inform members of the Armed Forces, veterans, their families and dependents, and military and civilian authorities regarding the existence or availability of (i) educational training and re-training facilities; (ii) health, medical, rehabilitation and housing services and facilities; (iii) employment and re-employment services; (iv) provisions of federal, state and local laws affording rights, privileges, and benefits to members of the Armed Forces, veterans, their families, and dependents; and (v) other matters of similar, related or appropriate nature.

(2) Assist veterans and their families and dependents in presentation, proof and establishment of such claims, privileges, rights and other benefits as they may have under federal, state or local laws.

(3) Cooperate with all national, state and local governmental and private agencies securing services or any benefits to veterans, their families and dependents.

(4) Investigate abuses or exploitation of veterans, their families or dependents, to correct where possible, and to recommend legislation where necessary for full correction.

(5) Coordinate the services and activities of all state departments or divisions having services and resources affecting veterans, their families or their dependents.

(6) Cooperate with and assist in training of county service officers. No fees, either directly or indirectly, shall be charged applicant for any service rendered by the Veterans Affairs Commission, nor shall the Commission permit the payment of any fee by applicant to any third person for services that may be rendered.

(d) Organization, meeting, reports. The Commission shall, within thirty (30) days after its appointment, organize, adopt a seal and make such rules and regulations for its administration as it may deem necessary and may from time to time amend such rules and regulations. At the organization meeting, the Commission shall elect from among its members a chairman, a vice-chairman, and a secretary to serve for one (1) year, and annually thereafter shall elect such officers who shall serve until their successors are appointed and qualified. Three (3) members shall constitute a quorum and no action shall be taken by less than a majority of the Commission. The Commission shall hold regular meetings at least once in every three (3) months. At the initial meeting, the regular meeting dates and places shall be fixed. Special meetings may be called as provided by the rules and regulations. The Commission shall on or about December first of each year make a written report to the Governor giving a summary of its proceedings during the preceding fiscal year and such other information deemed necessary or useful. The fiscal year of the Commission shall conform to the fiscal year of the state.

(e) Offices and expenses. Suitable offices and office equipment shall be provided by the State of Texas for the Veterans Affairs Commission in the City of Austin. The Commission may incur the necessary expenses

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for office furniture, stationery, printing, incidentals, and other expenses necessary to perform its work, and sufficient office personnel, stenographers, typists, and clerical help shall be employed to maintain the efficient operation of the office. The Commission shall be authorized to pay the expenses provided in paragraph (e) hereof from the appropriation hereinafter transferred to the Commission.

(f) Executive Director. The Commission shall employ a well-qualified Executive Director at a salary not to exceed Five Thousand Five Hundred Dollars (\$5,500). He shall be appointed with due regard to his fitness by past experience and training and should be well-qualified to administer the policies of the Commission. He shall devote his entire time to the duties of the office, as prescribed by this Act, and shall not actively engage or be employed in any other business, vocation, or profession while serving as Executive Director. The Director shall be responsible for placing into operation the policies and instructions promulgated by the Veterans Affairs Commission, and shall serve as Executive Officer of the Commission, but he shall not have the power to vote. The Director shall be in charge of the offices of the Commission, shall direct the paid personnel of the Commission, and be responsible to the Commission for all reports, data, and so forth, required by the Commission.

(g) Assistant Directors. There shall be employed by the Commission, upon recommendation of the Executive Director, two (2) assistant directors who shall, by training and experience, be well-qualified to perform the duties assigned to them, and one (1) of whom must have been finally separated from the service under honorable conditions as an enlisted man. The salaries for the assistant directors shall not exceed Four Thousand Eight Hundred Dollars (\$4,800) per year. One (1) assistant director, in addition to other duties, which may be assigned to him by the Commission, shall subject to the supervision and control of the Commission and the Executive Director, be in charge of claims and shall assist in such manner as the Commission may deem proper in the coordination of veterans claims work throughout the state. One (1) assistant director, in addition to such other duties as may be assigned to him by the Commission, shall be in charge of records, contracts, and coordination of the various agencies pertaining to veterans affairs.

(h) State Approval Agency for Veterans Education. The State Approval Agency for Veterans Education, as established by the Governor, under terms of United States Public Law 346, Acts of the 78th Congress and Public Law 679, Acts of the 79th Congress, shall be attached to the Veterans Affairs Commission for administration only. Policies for the administration of the training program for veterans have been established in a contract signed by the Governor, in behalf of the state, and the Veterans Administration of the United States. Under the terms of this agreement, the Director of this Agency is named by the Governor. The Agency is hereby attached to the Veterans Affairs Commission for administration purposes only. Under agreement with the Veterans Administration, the government of the United States pays salaries and travel expenses of personnel engaged in the training program. Incidental expenses for the operation of the Agency, such as postage, stationery, telephone and telegraph, and other contingent expenses, shall be paid by the Veterans Affairs Commission from funds appropriated for the purpose by the Legislature.

(i) Powers of Director and assistants. The Executive Director, and the assistant directors to be appointed under this Act shall have power to administer oaths, certify under the seal of the Commission to official acts, take depositions within or without the State of Texas, as now provided by

law, and compel the production of pertinent books, accounts, records and documents.

(j) Term of Director and assistants. The Director and the assistant directors and all representatives and employees appointed under this Act shall serve subject to the will of the Commission.

(k) Intent. It is the intent and purpose of this Act that the functions heretofore performed by the State Service Office of the State of Texas shall be absorbed by the Veterans Affairs Commission, as created herein.

(l) Appropriations. At such time as the functions and services now performed by the Veterans State Service Officer, are taken over and absorbed by the Veterans Affairs Commission hereby created, then all unexpended balances in all funds heretofore and hereafter appropriated to the Veterans State Service Office are hereby reappropriated to the Veterans Affairs Commission, to be expended in accordance with the provisions of the departmental appropriation bill, making the appropriation to the Veterans State Service Office provided that the Veterans Affairs Commission shall have the authority to change within the total amounts appropriated herein the designation of service officers and assistant service officers and their reassignment to conform with any changes in the location of Veterans Administration regions, veterans hospitals, and similar establishments, and be it further provided, that the assistant service officers designated in the available appropriation may be authorized to handle any and all veterans claims as ordered by the Veterans Commission. Acts 1963, 58th Leg., p. 209, ch. 112, § 1.

Former article 5787, as originally enacted by Acts 1905, p. 167, was repealed by Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

Art. 5788. Texas Code of Military Justice

Uniform Code of Military Justice, see 10 U.S.C.A. § 801 et seq.

PART I. GENERAL PROVISIONS

Definitions

Sec. 101. In this Act, unless the context otherwise requires:

(1) "State military forces" means the National Guard of the state, as defined in Section 101(3) of Title 32, United States Code, the organized Naval Militia of the state and any other militia or military forces organized under the laws of the state.

(2) "Officer" means commissioned or warrant officer.

(3) "Commissioned Officer" includes a commissioned warrant officer of the naval militia.

(4) "Commanding Officer" includes only commissioned officers.

(5) "Superior Commissioned Officer" means a commissioned officer superior in rank or command.

(6) "Enlisted member" means a person in an enlisted grade.

(7) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

(8) "Rank" means the order of precedence among members of the state military forces.

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(9) "Active state duty" means all duty authorized under the Constitution and laws of the State of Texas and all training authorized under Title 32, United States Code.

(10) "Judge Advocate" means any commissioned officer who is a member of the bar of the highest court of this state, who is designated to perform legal duties of a command.

(11) "Military Court" means a court-martial, a court of inquiry, or a provost court.

(12) "Law officer" means an official of a general court-martial detailed in accordance with Section 505 of this Act.

(13) "Law specialist" means a commissioned officer of the naval militia of the state designated for special duty (law).

(14) "Legal officer" means any commissioned officer of the organized naval militia of the state designated to perform legal duties for a command. He shall be a member of the State Bar of Texas.

(15) "State judge advocate" means the commissioned officer responsible for supervising the administration of military justice in the state military forces.

(16) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, or any person who has an interest other than an official interest in the prosecution of the accused.

(17) "Military" refers to any or all of the armed forces.

(18) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command.

(19) "May" is used in a permissive sense.

(20) "Shall" is used in an imperative sense.

(21) "Code" means this Act.

Persons subject to this Code

Sec. 102. This Code applies to all members of the state military forces who are not in federal service.

Jurisdiction to try certain personnel

Sec. 103. (a) Each person discharged from the state military forces who is later charged with having fraudulently obtained his discharge is, subject to Section 708, subject to trial by court-martial on that charge and is, after apprehension, subject to this Code while in custody of the military for that trial. Upon conviction of that charge he is subject to trial by court-martial for all offenses under this Code committed before the fraudulent discharge.

(b) No person who has deserted from state military forces may be relieved from amenability to the jurisdiction of this Code by virtue of a separation from any later period of service.

Dismissal of commissioned officer

Sec. 104. (a) If any commissioned officer, dismissed by order of the Governor, makes a written application for trial by court-martial, setting forth, under oath, that he has been wrongfully dismissed, the Governor, as soon as practicable, shall convene a general court-martial to try that

officer on the charges on which he was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and he shall be considered to have waived the right to plead any Statute of Limitations applicable to any offense with which he is charged. The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused he shall retain his status in the Texas Military Forces.

(b) If the Governor fails to convene a general court-martial within six (6) months from the presentation of an application for trial under this Code, the Adjutant General of Texas, or his designee, acting on behalf of the Governor, shall substitute for the dismissal ordered by the Governor a form of discharge authorized for administrative issue.

(c) If a discharge is substituted for a dismissal under this Code, the Governor alone may reappoint the officer to such commissioned grade and with such rank as, in the opinion of the Governor, that former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made only if a vacancy is available under applicable tables of organization. All time between the dismissal and the reappointment shall be considered as actual service for all purposes.

(d) If an officer is discharged from the state military forces by administrative action or by board proceedings under law, he has no right to trial under this Section.

Territorial applicability of the Code

Sec. 105. (a) This code applies throughout the state. It also applies to all persons otherwise subject to this Code while they are serving outside the state, and while they are going to and returning from such service outside the state, in the same manner and to the same extent as if they were serving inside the state.

(b) Courts-martial and courts of inquiry may be convened and held in units of the state military forces while those units are serving outside the state, with the same jurisdiction and power as to persons subject to this Code as if the proceedings were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside the state.

Judge Advocates and legal officers

Sec. 106. (a) The Governor, on the recommendation of the Adjutant General, shall appoint a commissioned officer of the state military forces as State Judge Advocate. To be eligible for appointment, a commissioned officer must be a member of the bar of the highest court of the State of Texas and must have been a member of the bar of the state for at least five (5) years.

(b) The Adjutant General may appoint as many judge advocates as he considers necessary. To be eligible for appointment a judge advocate must be a commissioned officer of the state military forces and a member of the bar of the highest court of the State of Texas.

(c) The State Judge Advocate or his assistants shall make frequent inspections in the field in supervision of the administration of military justice.

(d) Convening authorities shall at all times communicate directly with their judge advocates or legal officers in matters relating to the administration of military justice; and the judge advocate or legal officer of any command is entitled to communicate directly with the judge advocate

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or legal officer of a superior or subordinate command, or with the State Judge Advocate.

(e) No person who has acted as member, law officer, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense, in any case may later act as Judge Advocate or legal officer to any reviewing authority upon the same case.

PART II. APPREHENSION AND RESTRAINT

Apprehension

Sec. 201. (a) Apprehension is the taking of a person into custody.

(b) Any person authorized by this Code, or by regulations issued under it, to apprehend persons subject to this Code, any marshal of a court-martial appointed pursuant to the provisions of this Code, and any peace officer authorized to do so by law, may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(c) Commissioned officers, warrant officers, petty officers and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this Code and to apprehend persons subject to this Code who take part therein.

Apprehension of deserters

Sec. 202. Any civil officer having authority to apprehend offenders under the laws of the United States or of a state, territory, commonwealth, or possession, or the District of Columbia may summarily apprehend a deserter from the state military forces and deliver him into the custody of the state military forces.

Imposition of restraint

Sec. 203. (a) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

(b) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this Code or through any person authorized by this Code to apprehend persons. A commanding officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of his company or subject to his authority into arrest or confinement.

(c) A commissioned officer or warrant officer may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons apprehended or into arrest or confinement may not be delegated.

(d) No person may be ordered apprehended or into arrest or confinement except for probable cause.

(e) This Section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

Restraint of persons charged with offenses

Sec. 204. Any person subject to this Code charged with an offense under this Code shall be ordered into arrest or confinement, as circum-

stances may require; but when charged with only an offense normally tried by a summary court-martial, such person shall not ordinarily be placed in confinement. When any person subject to this Code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him.

Sec. 205. Persons confined other than in a guardhouse, whether before, during or after trial by a military court, shall be confined in civil jails.

Execution of confinement, see section 804 of this article.

Reports and receiving of prisoners

Sec. 206. (a) No provost marshal, commander of a guard, master at arms, warden, keeper, or officer of a city or county jail or any other jail, designated under Section 205 of this Code, may refuse to receive or keep any prisoner committed to his charge, when the committing person furnishes a statement, signed by him, of the offense charged against the prisoner.

(b) Every commander of a guard, master at arms, warden, keeper or officer of a city or county jail or of any other jail, designated under Section 205 of this Code, to whose charge a prisoner is committed shall, within twenty-four (24) hours after that commitment or as soon as he is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

Punishment prohibited before trial

Sec. 207. Subject to Section 803, no person, while being held for trial or the result of trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline.

Delivery of offenders to civil authorities

Sec. 208. (a) Under such regulations as may be prescribed under this Code a person subject to this Code who is on active state duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(b) When delivery under Section 208 is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender, after having answered to the civil authorities for his offense, shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence.

PART III. NON-JUDICIAL PUNISHMENT

Commanding officer's non-judicial punishment

Sec. 301. (a) Under such regulations as the Governor may prescribe, limitations may be placed on the powers granted by this Article with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized

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to exercise those powers, trial by court-martial to which the case may be referred upon such a demand. However, except in the case of a member attached to or embarked in a vessel, punishment may not be imposed upon any member of the armed forces under this Article if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder. If authorized by regulations of the Governor, the Governor or an officer of general or flag rank in command may delegate his powers under this Article to a principal assistant.

(b) Subject to subsection (a) of this Section, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(1) upon officers of his command;

(A) restriction to certain specified limits with or without suspension from duty, for not more than thirty (30) consecutive days;

(B) if imposed by the Governor, the commanding officer of a force of the state military forces or the commanding general of a division or a wing;

(i) arrest in quarters for not more than thirty (30) consecutive days;

(ii) fine or forfeiture of pay and allowances for not more than Seventy-five Dollars (\$75);

(iii) restriction to certain specified limits, with or without suspension from duty, for not more than sixty (60) consecutive days;

(iv) detention of not more than one-half of one month's pay per month for three (3) months;

(2) upon other personnel of his command;

(A) if imposed upon a person attached to or embarked in a vessel, confinement for not more than three (3) consecutive days;

(B) correctional custody for not more than seven (7) consecutive days.

(i) fine or forfeiture of pay and allowances for not more than Ten Dollars (\$10);

(C) reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(D) extra duties including fatigue or other duties, for not more than thirty (30) days, which need not be consecutive, and for not more than two (2) hours per day, holidays included;

(E) restriction to certain specified limits, with or without suspension from duty for not more than thirty (30) consecutive days;

(F) detention of not more than fourteen (14) days pay;

(G) if imposed by an officer of the grade of major or lieutenant commander, or above;

(i) the punishment authorized under subsection (b) (2) (A);

(ii) correctional custody for not more than thirty (30) consecutive days;

(iii) fine or forfeiture of pay and allowances for not more than Seventy-five Dollars (\$75).

(iv) reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two (2) pay grades;

(v) extra duties, including fatigue or other duties, for not more than forty-five (45) days which need not be consecutive and for not more than two (2) hours per day, holidays included;

(vi) restriction to certain specified limits with or without suspension from duty, for not more than sixty (60) consecutive days;

(vii) detention of not more than one-half ($\frac{1}{2}$) of one (1) months pay per month for three (3) months.

Detention of pay shall be for a stated period of not more than one (1) year but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No two (2) or more of the punishments of arrest in quarters, correctional custody, extra duties, and restriction may be combined to run consecutively in the maximum amount imposable for each. Whenever any of those punishments are combined to run consecutively, there must be an apportionment. In addition, fine or forfeiture of pay may not be combined with detention of pay without an apportionment. For the purposes of this subsection "correctional custody" is the physical restraint of a person during duty or non-duty hours and may include extra duties, fatigue duties, or hard labor. If practicable, correctional custody will not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by courts-martial.

(c) An officer in charge may impose upon enlisted members assigned to the unit of which he is in charge such of the punishments authorized under subsection (b) (2) (A)-(G) as the Governor may specifically prescribe by regulation.

(d) The officer who imposes the punishment authorized in subsection (b) or his successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or fine or forfeiture imposed under subsection (b), whether or not executed. In addition, he may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted; and restore all rights, privileges, and property affected. He may also mitigate reduction in grade to fine or forfeiture or detention of pay.

When mitigating:

(1) arrest in quarters to restriction, or

(2) extra duties to restriction,

the mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating forfeiture of pay to detention of pay, the amount of the detention shall not be greater than the amount of the forfeiture. When mitigating reduction in grade to fine, forfeiture or detention of pay, the amount of the fine, forfeiture or detention shall not be greater than the amount that could have been imposed initially under this Article by the officer who imposed the punishment mitigated.

(e) A person punished under this Article who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be

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promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (d) by the officer who imposed the punishment. Before acting on an appeal from a punishment of:

- (1) arrest in quarters for more than seven (7) days;
- (2) forfeiture of more than seven (7) days pay;
- (3) reduction of one (1) or more pay grades from the fourth (4th) or a higher pay grade;
- (4) extra duties for more than fourteen (14) days;
- (5) restriction of more than fourteen (14) days pay;
- (6) detention of more than fourteen (14) days pay;

the authority who is to act on the appeal shall refer the case to a judge advocate or legal officer of the state military forces for consideration and advice, and may so refer the case upon appeal from any punishment imposed under subsection (b).

(f) The imposition and enforcement of disciplinary punishment under this Article for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this Article, but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(g) The Governor may, by regulation, prescribe the form of records to be kept of proceedings under this Article and may also prescribe that certain categories of those proceedings shall be in writing.

PART IV. COURTS-MARTIAL JURISDICTION

Courts-martial of State Military Forces not in federal service— composition—jurisdiction—powers and proceedings

Sec. 401. (a) In the state military forces not in federal service, there are general, special and summary courts-martial constituted like similar courts of the armed forces of the United States. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures provided for those courts.

- (b) The three (3) kinds of courts-martial are:
- (1) General courts-martial, consisting of a law officer and not less than five (5) members;
 - (2) Special courts-martial, consisting of not less than three (3) members; and
 - (3) Summary courts-martial, consisting of one (1) commissioned officer.

Jurisdiction of courts-martial in general

Sec. 402. Each force of the state military forces has court-martial jurisdiction over all persons subject to this Code. The exercise of jurisdiction by one force over personnel of another force shall be in accordance with regulations prescribed by the Governor.

Jurisdiction of general courts-martial

Sec. 403. Subject to Section 402, general courts-martial have jurisdiction to try persons subject to this Code for any offense made punishable by this Code and may, under such limitations as the Governor may prescribe, adjudge any of the following punishments:

- (1) A fine of not more than Two Hundred Dollars (\$200);
- (2) Forfeiture of pay and allowances;
- (3) A reprimand;
- (4) Dismissal or dishonorable discharge;
- (5) Reduction of a non-commissioned officer to the ranks; or
- (6) Any combination of these punishments.

Jurisdiction of special courts-martial

Sec. 404. Subject to Section 402, special courts-martial have jurisdiction to try persons subject to this Code, except officers, for any offense for which they may be punished under this Code. A special court-martial has the same powers of punishment as a general court-martial, except that a fine imposed by a special court-martial may not be more than One Hundred Dollars (\$100) for a single offense.

Jurisdiction of summary courts-martial

Sec. 405. (a) Subject to Section 402, summary courts-martial have jurisdiction to try persons subject to this Code, except officers, for any offense made punishable by this Code.

(b) No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if he objects thereto unless under Section 301 he has been permitted and has elected to refuse punishment under that Section. If objection to trial by summary court-martial is made by an accused who has not been permitted to refuse punishment under Section 301, trial shall be ordered by special or general court-martial, as may be appropriate.

(c) A summary court-martial may sentence to a fine of not more than Twenty-five Dollars (\$25) for a single offense, to forfeiture of pay and allowances, and reduction of a non-commissioned officer to the ranks.

Sentences of dismissal or dishonorable discharge to be approved by the Governor

Sec. 406. In the militia or state military forces not in federal service, no sentence of dismissal or dishonorable discharge may be executed until it is approved by the Governor.

Complete record of proceedings and testimony if dishonorable discharge or dismissal adjudged

Sec. 407. A dishonorable discharge or dismissal may not be adjudged by any court-martial unless a complete record of the proceedings and testimony before the court has been made.

Execution or suspension of sentence, see section 901 of this article. Review of records; disposition, see section 907 of this article.

Confinement instead of fine

Sec. 408. In the militia or state military forces not in federal service, a court-martial may, instead of imposing a fine, sentence to confinement for not more than one (1) day for each dollar of the authorized fine.

**PART V. APPOINTMENT AND COMPOSITION OF
COURTS-MARTIAL**

Who may convene general courts-martial

Sec. 501. In the militia or state military forces not in federal service general courts-martial may be convened by the Governor or by the Adjutant General under such regulations as the Governor may promulgate.

**Special courts-martial of state military forces not in federal
service—who may convene**

Sec. 502. In the state military forces not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene special courts-martial. Special courts-martial may also be convened by superior authority. When any such officer is an accuser, the court shall be convened by superior competent authority.

**Summary courts-martial of state military forces not in
federal service—who may convene**

Sec. 503. (a) In the state military forces not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of one commissioned officer. The proceedings shall be informal.

(b) When only one commissioned officer is present with a command or detachment he shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable by him.

Who may serve on courts-martial

Sec. 504. (a) Any commissioned officer of or on duty with the state military forces is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(b) Any warrant officer off or on duty with the state military forces is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(c) (1) Any enlisted member of the state military forces who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member who may lawfully be brought before such courts for trial but he shall serve as a member of a court only if, before the convening of the court, the accused personally has requested in writing that enlisted members serve on it. After such a request, the accused may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third ($\frac{1}{3}$) of the total membership of the court, unless eligible members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the con-

vening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

(2) In this Section, the word "unit" means any regularly organized body of the state military forces not larger than a company, a squadron, a division of the naval militia, or a body corresponding to one of them.

(d) (1) When it can be avoided, no person subject to this Code may be tried by a court-martial any member of which is junior to him in rank or grade.

(2) When convening a court-martial, the convening authority shall detail as members thereof such members as, in his opinion, are best qualified for the duty by reason of age, education, training, experience, length of service and judicial temperament. No member is eligible to serve as a member of a general or special court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case. If within the command of the convening authority there is present and not otherwise disqualified a commissioned officer who is a member of the bar of the highest court of the state and of appropriate rank and grade, the convening authority shall appoint him as president of a special court-martial. Although this requirement is binding on the convening authority, failure to meet it in any case does not divest a military court of jurisdiction.

Law officer of a general court-martial

Sec. 505. (a) The authority convening a general court-martial shall detail as law officer thereof a commissioned officer who is a member of the bar of the highest court of the state, and who is certified to be qualified for such duty by the State Judge Advocate. No person is eligible to act as law officer in a case if he is an accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

(b) The law officer may not consult with the members of the court, other than on the form of the findings as provided in Section 704, except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the court.

Law officer defined, see section 101(12) of this article.

Detail of trial counsel and defense counsel

Sec. 506. (a) For each general and special court-martial the authority convening the court shall detail trial counsel and defense counsel and such assistants as he considers appropriate. No person who has acted as investigating officer, law officer, or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel, or assistant defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(b) Trial counsel or defense counsel detailed for a general court-martial:

(1) Must be a person who is a member of the bar of the highest court of the state; and

(2) Must be certified as competent to perform such duties by the State Judge Advocate.

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

(c) In the case of a special court-martial:

(1) If the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and

(2) If the trial counsel is a member of the bar of the highest court of the state, the defense counsel detailed by the convening authority must be a person similarly qualified.

Duties of trial counsel and defense counsel, see section 703 of this article.

Review counsel, see section 909 of this article.

Detail or employment of reporters and interpreters

Sec. 507. Under such regulations as the Governor may prescribe, the convening authority of a general or special court-martial or court of inquiry shall detail or employ qualified court reporters who shall record the proceedings of and testimony taken before that court. Under like regulations the convening authority of a military court may detail or employ interpreters who shall interpret for the court.

Absent and additional members

Sec. 508. (a) No member of a general or special court-martial may be absent or excused after the accused has been arraigned except for physical disability or as the result of a challenge or by order of the convening authority for good cause.

(b) Whenever a general court-martial is reduced below five (5) members the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than five (5) members. When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court in the presence of the law officer, the accused, and counsel.

(c) Whenever a special court-martial is reduced below three (3) members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three (3) members. When the new members have been sworn, the trial shall proceed as if no evidence has previously been introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read to the court in the presence of the accused and counsel.

PART VI. PRE-TRIAL PROCEDURE

Charges and specifications

Sec. 601. (a) Charges and specifications shall be signed by a person subject to this Code under oath before a person authorized by this Code to administer oaths and shall state:

(1) That the signer has personal knowledge of, or has investigated, the matters set forth therein; and

(2) That they are true in fact to the best of his knowledge and belief.

(b) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges against him as soon as practicable.

Depositions, see section 714 of this article.

Compulsory self-incrimination prohibited

Sec. 602. (a) No person subject to this Code may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

(b) No person subject to this Code may interrogate, or request any statement from an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

(c) No person subject to this Code may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

(d) No statement obtained from any person in violation of this Section, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial.

Investigation

Sec. 603. (a) No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

(b) The accused shall be advised of the charges against him and of his right to be represented at that investigation by counsel. Upon his own request, he shall be represented by civilian counsel if provided by him, or military counsel of his own selection if such counsel is reasonably available, or by counsel detailed by the officer exercising general court-martial jurisdiction over the command. At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

(c) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b), no further investigation of that charge is necessary under this Section unless it is demanded by the accused after he is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his own behalf.

(d) The requirements of this Section are binding on all persons administering this Code but failure to follow them does not divest a military court of jurisdiction.

Forwarding of charges

Sec. 604. When a person is held for trial by general court-martial the commanding officer shall, within eight (8) days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the Governor. If that is not practicable, he shall report in writing to the Governor the reasons for delay.

Advice of Judge Advocate and reference for trial

Sec. 605. (a) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to his judge advocate for consideration and advice. The convening authority may not refer a charge to a general court-martial for trial unless he has found that the charge alleges an offense under this Code and is warranted by evidence.

(b) If the charges or specifications are not formally correct or do not conform to the substance of the evidence, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence may be made.

Service of charges

Sec. 606. The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. In time of peace no person may, against his objections, be brought to trial before a general court-martial within a period of five (5) days after the service of charges upon him, or before a special court-martial within a period of three (3) days after the service of charges upon him.

PART VII. TRIAL PROCEDURE**Governor may prescribe rules**

Sec. 701. The procedure, including modes of proof, in cases before military courts and other military tribunals may be prescribed by the Governor by regulations, which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the State of Texas, but which may not be contrary to or inconsistent with this Code.

Unlawfully influencing action of court

Sec. 702. No authority convening a general, special or summary court-martial nor any other commanding officer, or officer serving on the staff thereof, may censure, reprimand, or admonish the court or any member, law officer, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceeding. No person subject to this Code may attempt to coerce or, by any unauthorized means, influence the action of the court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts.

Duties of trial counsel and defense counsel

Sec. 703. (a) The trial counsel of a general or special court-martial shall prosecute in the name of the State of Texas, and shall, under the direction of the court, prepare the record of the proceedings.

(b) The accused has the right to be represented in his defense before a general, special or summary court-martial by civilian counsel if provided by him, or by military counsel of his own selection if reasonably available, or by the defense counsel detailed under Section 506. Should the accused have counsel of his own selection, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as his associate counsel; otherwise they shall be excused by the president of the court.

(c) In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings, a brief of such matters he feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he considers appropriate.

(d) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he is qualified to be a trial counsel as required by Section 506, perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(e) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by Section 506, perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

Sessions

Sec. 704. Whenever a general or special court-martial deliberates or votes, only the members of the court may be present. After a general court-martial has finally voted on the findings, the court may request the law officer and the reporter to appear before the court to put the findings in proper form, and those proceedings shall be on the record. All other proceedings, including any other consultation of the court with counsel or the law officer, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in general court-martial cases, the law officer.

Continuances

Sec. 705. A court-martial may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

Challenges

Sec. 706. (a) Members of a general or special court-martial and the law officer of a general court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The court shall determine the relevancy and validity of challenges for cause, and may not receive a challenge to more than one (1) person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(b) Each accused and the trial counsel is entitled to one preemptory challenge, but the law officer may not be challenged except for cause.

Oaths

Sec. 707. The law officer, interpreters, and in general and special courts-martial, members, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, and reporters shall take an oath or

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

affirmation in the presence of the accused to perform their duties faithfully, as follows:

(a) Court members:

"You, _____, do swear (or affirm) that you will faithfully perform all the duties incumbent upon you as a member of this court; that you will faithfully and impartially try, according to the evidence, your conscience, and the laws and regulations provided for trials by courts-martial, the case of (the) (each) accused now before this court; and that if any doubt should arise not explained by the laws and regulations, then according to the best of your understanding and the custom of war in like cases; that you will not divulge the findings and sentence in any case until they shall have been duly announced by the court; and that you will not disclose or discover the vote or opinion of any particular member of the court upon a challenge or upon the findings or sentence unless required to do so before a court of justice in due course of law. So help you God."

(b) Law officer:

"You, _____, do swear (or affirm) that you will faithfully and impartially perform, according to your conscience and the laws and regulations provided for trials by courts-martial, all the duties incumbent upon you as law officer of this court; that if any doubt should arise not explained by the laws and regulations, then according to the best of your understanding and the custom of war in like cases; and that you will not divulge the findings or sentence in any case until they shall have been duly announced by the court. So help you God."

(c) Trial Counsel:

"You, _____ and _____, do swear (or affirm) that you will faithfully perform the duties of trial counsel and will not divulge the findings or sentence of the court to any but the proper authority until they shall be duly disclosed. So help you God."

(d) Defense Counsel:

"You, _____ (and) _____, do swear (or affirm) that you will faithfully perform the duties of defense (and individual) counsel and will not divulge the findings or sentence of the court to any but the proper authority until they shall be duly disclosed. So help you God."

(e) Court of inquiry:

The recorder of a court of inquiry shall administer to the members the following oath: "You shall well and truly examine and inquire, according to the evidence, into the matter now before you without partiality, favor, affection, prejudice or hope of reward. So help you God." After which the president of the court shall administer to the recorder the following oath: "You do swear that you will according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God."

(f) Witnesses:

All persons who give evidence before a court-martial or court of inquiry shall be examined on oath administered by the judge advocate in the following form: "You swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God."

(g) Reporter or interpreter:

"You swear (or affirm) that you will faithfully perform the duties of reporter (or interpreter) to this court. So help you God."

Statute of limitations

Sec. 708. (a) A person charged with desertion or absence without leave in time of war, or with aiding the enemy or with mutiny may be tried and punished at any time without limitation.

(b) Except as otherwise provided in this Section, a person charged with desertion in time of peace or with the offense punishable under Section 1041 is not liable to be tried by court-martial if the offense was committed more than three (3) years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

(c) Except as otherwise provided in this Section, a person charged with any offense is not liable to be tried by court-martial or punished under Section 301 if the offense was committed more than two (2) years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command, or before the imposition of punishment under Section 301.

(d) Periods in which the accused was absent from territory in which the state has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this Section.

Jurisdiction to try certain personnel, see section 103 of this article.

Former jeopardy

Sec. 709. (a) No person may be tried a second time in any military court of the State of Texas for the same offense.

(b) No proceedings in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this Section until the finding of guilty has become final after review of the case has been fully completed.

(c) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this Section.

Pleas of the accused

Sec. 710. If an accused arraigned before a court-martial makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he had pleaded not guilty.

Opportunity to obtain witnesses and other evidence

Sec. 711. (a) The trial counsel, the defense counsel, accused, and the court-martial shall have equal opportunity to obtain witnesses and other evidence. Each shall have the right of compulsory process for obtaining witnesses.

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

(b) The president of a court-martial or a summary court officer may:

(1) Issue a warrant for the arrest of any accused person who having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;

(2) Issue a subpoena duces tecum and other subpoenas;

(3) Enforce by attachment the attendance of witnesses and the production of books and papers; and

(4) Sentence for refusal to be sworn or to answer, as provided in actions before civil courts of the state.

(c) Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall run to any part of the state and shall be executed by civil officers as described by the laws of the state.

Refusal to appear or testify

Sec. 712. (a) Any person not subject to this Code who:

(1) Has been duly subpoenaed to appear as a witness or to produce books and records before a military court or before any military or civil officer designated to take a deposition to be read in evidence before a court;

(2) Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses, said fees to be paid by the Adjutant General's Department as hereinafter provided; and

(3) Wilfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce; is guilty of an offense against the state and may be punished by fine not to exceed One Hundred Dollars (\$100) or confinement not to exceed thirty (30) days in jail, or by both fine and confinement, and such witness may be prosecuted in the proper county court.

Contempts

Sec. 713. A military court may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. Punishment may not exceed confinement for three (3) days or a fine of One Hundred Dollars (\$100), or both.

Depositions

Sec. 714. (a) At any time after charges have been signed, as provided in Section 601, any party may take oral or written depositions unless an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Depositions may be taken before and authenticated by any military or civil officer authorized by laws of the state or by the laws of the place where the deposition is taken to administer oaths.

(d) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evi-

dence, may be read in evidence before any court-martial or in any proceeding before a court of inquiry, if it appears:

(1) That the witness resides or is beyond the state in which the court-martial or court of inquiry is ordered to sit, or beyond the distance of one hundred (100) miles from the place of trial or hearing;

(2) That the witness by reason of death, age or sickness, bodily infirmity, imprisonment, military necessity, non-amenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

(3) That the present whereabouts of the witness is unknown.

Admissibility of records of courts of inquiry

Sec. 715. (a) In any case not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

(b) Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

(c) Such testimony may also be read in evidence before a court of inquiry or a military board.

(d) In all courts of inquiry both enlisted men and officers shall have the right to counsel and the right to cross examination of all witnesses and all constitutional rights in all courts of inquiry before such evidence shall be admissible.

Voting and rulings

Sec. 716. (a) Voting by members of a general or special court-martial upon questions of challenge, on the findings, and on the sentence shall be by secret written ballot. The junior member of the court shall in each case count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

(b) The law officer of a general court-martial and the president of a special court-martial shall rule upon interlocutory questions, other than challenge, arising during the proceedings. Any such ruling made by the law officer of a general court-martial or by the president of a special court-martial upon any interlocutory question other than a motion for a finding of not guilty, or the question of the accused's sanity, is final and constitutes the ruling of the court. However, the law officer or president may change the ruling at any time during the trial except a ruling on a motion for a finding of not guilty that was granted. Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote as provided in Section 717 beginning with the junior in rank.

(c) Before a vote is taken on the findings, the law officer of a general court-martial and the president of a special court-martial, shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court:

(1) That the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

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

(2) That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

(3) That, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

(4) That the burden of proof of establishing the guilt of the accused beyond reasonable doubt is upon the state.

Number of votes required

Sec. 717. (a) No person may be convicted of an offense, except by the concurrence of two-thirds of the members present at the time the vote is taken.

(b) All sentences shall be determined by the concurrence of two-thirds of the members present at the time the vote is taken.

(c) All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused.

Court to announce action

Sec. 718. A court-martial shall announce its findings and sentence to the parties as soon as determined.

Record of trial

Sec. 719. (a) Each court-martial shall keep a separate record of the proceedings of the trial of each case brought before it and the record shall be authenticated by the signature of the president and the law officer. If the record cannot be authenticated by either the president or the law officer, by reason of his death, disability, or absence, it shall be signed by a member in lieu of him. If both the president and the law officer are unavailable, the record shall be authenticated by two (2) members. A record of the proceedings of a trial in which the sentence adjudged includes a bad-conduct discharge or is more than that which could be adjudged by a special court-martial shall contain a verbatim account of the proceedings and testimony before the court. All other records of trial shall contain such matter and be authenticated in such manner as the Governor may by regulation prescribe.

(b) A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated. If a verbatim record of trial by general court-martial is not required by subsection (a), but has been made, the accused may buy such a record under such regulations as the Governor may prescribe.

PART VIII. SENTENCES

Cruel and unusual punishments prohibited

Sec. 801. Punishment by flogging, or by branding, marking or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted upon any person subject to this Code. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

Maximum limits

Sec. 802. The punishment which a court-martial may direct for an offense may not exceed the limits prescribed by this Code nor limits prescribed by the Governor of the State of Texas.

Effective date of sentences

Sec. 803. (a) Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. No forfeiture may extend to any pay or allowances accrued before that date.

(b) Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial but periods during which the sentence to confinement is suspended shall be excluded in computing the service of the term of confinement. Regulations prescribed by the Governor may provide that sentences of confinement may not be executed until approved by designated officers.

(c) All other sentences of courts-martial are effective on the date ordered executed.

Execution of confinement

Sec. 804. (a) A sentence of confinement adjudged by a military court, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the state military forces or in any jail, penitentiary, or prison designated for that purpose. Persons so confined in a jail, penitentiary, or prison are subject to the same discipline and treatment as persons confined or committed to the jail, penitentiary, or prison by the courts of the state or of any political subdivision thereof.

(b) The omission of the words "hard labor" from any sentence or punishment of a court-martial adjudging confinement does not deprive the authority executing that sentence or punishment of the power to require hard labor as a part of the punishment.

(c) The keepers, officers, and wardens of city or county jails and other jails, penitentiaries, or prisons designated by the Governor, or by such person as he may authorize to act under Section 205 of this Code, shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law. No such keeper, officer, or warden may require payment of any fee or charge for so receiving or confining a person.

PART IX. REVIEW OF COURTS-MARTIAL**Execution of sentence; suspension of sentence**

Sec. 901. Except as provided in Sections 407 and 907 of this Code, a court-martial sentence, unless suspended, may be ordered executed by the convening authority when approved by him. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence as approved by him.

Initial action on the record

Sec. 902. After trial by court-martial the record shall be forwarded to the convening authority, as reviewing authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or by the Governor.

Same general court-martial records

Sec. 903. The convening authority shall refer the record of each general court-martial to his judge advocate who shall submit his written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction.

Reconsideration and revision

Sec. 904. (a) If a specification before a court-martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(b) Where there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court-martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. In no case, however, may the record be returned:

(1) For reconsideration of a finding of not guilty, or a ruling which amounts to a finding of not guilty;

(2) For consideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some Section of this Code; or

(3) For increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory.

Rehearings

Sec. 905. (a) If the convening authority disapproves the finding and sentence of a court-martial he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. In such a case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.

(b) Each rehearing shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

Approval by the convening authority

Sec. 906. In acting on the findings and sentence of a court-martial, the convening authority may approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in

law and fact and as he in his discretion determines should be approved. Unless he indicates otherwise, approval of the sentence is approval of the findings and sentence.

Review of records; disposition

Sec. 907. (a) If the convening authority is the Governor, his action on the review of any record of trial is final.

(b) In all other cases not covered by subsection (a), if the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, whether or not suspended, the entire record shall be sent to the appropriate judge advocate or legal officer of the state military forces concerned to be reviewed in the same manner as a record of trial by general court-martial. The record and the opinion of the judge advocate or legal officer shall then be sent to the State Judge Advocate for review.

(c) All other special and summary court-martial records shall be sent to the judge advocate or legal officer of the appropriate force of the state military forces and shall be acted upon, transmitted, and disposed of as may be prescribed by regulations prescribed by the Governor.

(d) The State Judge Advocate shall review the record of trial in each case sent to him for review as provided under subsection (b). If the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the State Judge Advocate is limited to questions of jurisdiction.

(e) The State Judge Advocate shall take final action in any case reviewable by him.

(f) In a case reviewable by the State Judge Advocate under this Section, the State Judge Advocate may act only with respect to the findings and sentence as approved by the convening authority. He may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, he may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the State Judge Advocate sets aside the findings and sentence, he may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If he sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed.

(g) In a case reviewable by the State Judge Advocate under this Section, he shall instruct the convening authority to act in accordance with his decision on the review. If he has ordered a rehearing but the convening authority finds a rehearing impracticable, he may dismiss the charges.

(h) The State Judge Advocate may order one or more boards of review each composed of not less than three (3) commissioned officers of the state military forces, each of whom must be a member of the bar of the highest court of the state. Each board of review shall review the record of any trial by special court-martial, including a sentence to a bad conduct discharge, referred to it by the State Judge Advocate. Boards of review have the same authority on review as the State Judge Advocate has under this Section.

Error law; lesser included offense

Sec. 908. (a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm so much of the finding as includes a lesser included offense.

Review counsel

Sec. 909. (a) Upon the final review of a sentence of a general court-martial or of a sentence to a bad conduct discharge, the accused has the right to be represented by counsel before the reviewing authority, before the judge advocate or legal officer, as the case may be, and before the State Judge Advocate.

(b) Upon the request of an accused entitled to be so represented, the State Judge Advocate shall appoint a lawyer who is a member of the state military forces and who has the qualifications prescribed in Section 506, if available, to represent the accused before the reviewing authority, before the judge advocate or legal officer, as the case may be, and before the State Judge Advocate, in the review of cases specified in subsection (a) of this Section.

(c) If provided by him, an accused entitled to be so represented may be represented by civilian counsel before the reviewing authority, before the judge advocate or legal officer, as the case may be, and before the State Judge Advocate.

Vacation of suspension

Sec. 910. (a) Before the vacation of the suspension of a special court-martial sentence which is approved includes a bad conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel if he so desires.

(b) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the Governor in cases involving a general court-martial sentence and to the commanding officer of the force of the state military forces of which the probationer is a member in all other cases covered by subsection (a) of this Section. If the Governor or commanding officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

(c) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

Petition for a new trial

Sec. 911. At any time within two (2) years after approval by the convening authority of a court-martial sentence which extends to dismissal, dishonorable or bad conduct discharge, the accused may petition the Governor for a new trial on ground of newly discovered evidence or fraud on the court-martial.

Finality of proceedings, findings and sentences, see section 914 of this article.

Remission or suspension

Sec. 912. (a) A convening authority may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures.

(b) The Governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

Restoration

Sec. 913. (a) Under such regulations as the Governor may prescribe, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge shall be restored unless a new trial or re-hearing is ordered and such executed part is included in a sentence imposed upon a new trial or hearing.

(b) If a previously executed sentence of dishonorable or bad conduct discharge is not imposed on a new trial, the Governor shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(c) If a previously executed sentence of dismissal is not imposed on a new trial, the Governor shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the Governor alone to such commissioned grade and with such rank as in the opinion of the Governor that former officer would have attained had he not been dismissed. The reappointment of such former officer may be made if a position vacancy is available under applicable tables of organization. All the time between the dismissal and reappointment shall be considered as service for all purposes.

Finality of proceedings, findings, and sentences

Sec. 914. The proceedings, findings, and sentences of courts-martial as reviewed and approved, as required by this Code, and all dismissals and discharges carried into execution under sentences by courts-martial following review and approval as required by this Code, are final and conclusive. Orders publishing the proceedings of the courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the state, subject only to action upon a petition for a new trial as provided in Section 911 of this Code.

PART X. PUNITIVE ARTICLES**Persons to be tried or punished**

Sec. 1001. No person may be tried or punished for any offense provided for in Sections 1002-1045 of this Code, unless it was committed while he was in a duty status.

Principals

Sec. 1002. Any person subject to this Code who:

(1) Commits an offense punishable by this Code, or aids, abets, counsels, commands or procures its commission; or

(2) Causes an act to be done which if directly performed by him would be punishable by this Code;
is a principal.

Accessory after the fact

Sec. 1003. Any person subject to this Code, who knowing that an offense punishable by this Code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

Conviction of lesser included offense

Sec. 1004. An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

Attempts

Sec. 1005. (a) An act, done with specific intent to commit an offense under this Code, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

(b) Any person subject to this Code who attempts to commit any offense punishable by this Code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Any person subject to this Code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

Conspiracy

Sec. 1006. Any person subject to this Code who conspires with any other person to commit an offense under this Code, shall if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

Solicitation

Sec. 1007. (a) Any person subject to this Code who solicits or advises another or others to desert in violation of Section 1010 of this Code or mutiny in violation of Section 1019 of this Code, shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a court-martial may direct.

(b) Any person subject to this Code who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of Section 1024 of this Code or sedition in violation of Section 1019 of this Code shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, he shall be punished as a court-martial may direct.

Fraudulent enlistment, appointment, or separation

Sec. 1008. Any person who:

(1) Procures his own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) Procures his own separation from the state military forces by knowingly false representation or deliberate concealment as to his eligibility for that separation;

shall be punished as a court-martial may direct.

Unlawful enlistment, appointment, or separation

Sec. 1009. Any person subject to this Code who effects an enlistment or appointment in or a separation from the state military forces of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

Desertion

Sec. 1010. (a) Any member of the state military forces who:

(1) Without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom permanently;

(2) Quits his unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important service; or

(3) Without being regularly separated from one of the State military forces enlists or accepts an appointment in the same or another one of the state military forces, or in one of the armed forces of the United States, without fully disclosing the fact that he has not been regularly separated; is guilty of desertion.

(b) Any commissioned officer of the state military forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(c) Any person found guilty of desertion or attempt to desert shall be punished as a court-martial may direct.

Absence without leave

Sec. 1011. Any person subject to this Code, who without authority:

(1) Fails to go to his appointed place of duty at the time prescribed;

(2) Goes from that place; or

(3) Absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed; shall be punished as a court-martial may direct.

Missing movement

Sec. 1012. Any person subject to this Code who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct.

Contempt towards officials

Sec. 1013. Any person subject to this Code who uses contemptuous words against the Governor of Texas, shall be punished as a court-martial may direct.

Disrespect toward superior commissioned officer

Sec. 1014. Any person subject to this Code who behaves with disrespect toward his superior commissioned officer shall be punished as a court-martial may direct.

Assaulting or wilfully disobeying superior commissioned officer

Sec. 1015. Any person subject to this Code who:

(1) Strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while in the execution of his office; or

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

(2) Wilfully disobeys a lawful command of his commissioned officer; shall be punished as a court-martial may direct.

Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer

Sec. 1016. Any warrant officer or enlisted member who:

(1) Strikes or assaults a warrant officer, noncommissioned officer or petty officer, while that officer is in the execution of his office;

(2) Wilfully disobeys the lawful order of a warrant officer, noncommissioned officer or petty officer; or

(3) Treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office; shall be punished as a court-martial may direct.

Failure to obey order or regulation

Sec. 1017. Any person subject to this Code who:

(1) Violates or fails to obey any lawful general order or regulation;

(2) Having knowledge of any other lawful order issued by a member of the state military forces which it is his duty to obey, fails to obey the order; or

(3) Is derelict in the performance of his duties; shall be punished as a court-martial may direct.

Cruelty and maltreatment

Sec. 1018. Any person subject to this Code who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct.

Mutiny or sedition

Sec. 1019. (a) Any person subject to this Code who:

(1) With intent to usurp or override lawful military authority refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

(2) With intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

(3) Fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(b) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

Solicitation, see section 1007 of this article.

Resistance, breach of arrest, and escape

Sec. 1020. Any person subject to this Code who resists apprehension or breaks arrest or who escapes from physical restraint lawfully imposed shall be punished as a court-martial may direct.

Releasing prisoner without proper authority

Sec. 1021. Any person subject to this Code who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with the law.

Unlawful detention of another

Sec. 1022. Any person subject to this Code who, except as provided by law or regulation, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

Noncompliance with procedural rules

Sec. 1023. Any person subject to this Code who:

(1) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this Code; or

(2) Knowingly and intentionally fails to enforce or comply with any provision of this Code regulating the proceedings before, during, or after trial of an accused;

shall be punished as a court-martial may direct.

Misbehavior before the enemy

Sec. 1024. Any person subject to this Code who before or in the presence of the enemy

(1) Runs away;

(2) Shamefully abandons, surrenders, or delivers upon any command, unit, place, or military property which it is his duty to defend;

(3) Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

(4) Casts away his arms or ammunition;

(5) Is guilty of cowardly conduct;

(6) Quits his place of duty to plunder or pillage;

(7) Causes false alarms in the command, unit, or place under control of the armed forces of the United States or the state military forces;

(8) Wilfully fails to do his utmost to encounter, engage, capture or destroy enemy troops, combatants, vessels, aircraft, or any other thing, which it is his duty to so encounter, engage, capture, or destroy; or

(9) Does not afford all practicable relief, and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to this state, or to any other state, when engaged in battle;

shall be punished as a court-martial may direct.

Solicitation, see section 1007 of this article.

Subordinate compelling surrender

Sec. 1025. Any person subject to this Code who compels or attempts to compel the commander of any of the state military forces of this state, or of any other state, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court-martial may direct.

Improper use of countersign

Sec. 1026. Any person subject to this Code who in time of war discloses the parole or countersign to any person not entitled to receive it, or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished as a court-martial may direct.

Forcing a safeguard

Sec. 1027. Any person subject to this Code who forces a safeguard shall be punished as a court-martial may direct.

Captured or abandoned property

Sec. 1028. (a) All persons subject to this Code shall secure all public property taken from the enemy for the service of the State of Texas or the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(b) Any person subject to this Code who:

- (1) Fails to carry out the duties prescribed in subsection (a);
- (2) Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or
- (3) Engages in looting or pillaging: shall be punished as a court-martial may direct.

Aiding the enemy

Sec. 1029. Any person subject to this Code who:

- (1) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money or other things; or
- (2) Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly; shall be punished as a court-martial may direct.

Misconduct of a prisoner

Sec. 1030. Any person subject to this Code who, while in the hands of the enemy in time of war:

- (1) For the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or
 - (2) While in a position of authority over such persons maltreats them without justifiable cause;
- shall be punished as a court-martial may direct.

False official statements

Sec. 1031. Any person subject to this Code who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct.

Military property-loss, damage, destruction, or wrongful disposition

Sec. 1032. Any person subject to this Code who, without proper authority:

- (1) Sells or otherwise disposes of;
 - (2) Wilfully or through neglect damages, destroys, or loses; or
 - (3) Wilfully or through neglect suffers to be damaged, destroyed, sold, or wrongfully disposed of;
- any military property of the United States or of the State of Texas, shall be punished as a court-martial may direct.

Property other than military property-waste, spoilage or destruction

Sec. 1033. Any person subject to this Code who, while in a duty status, wilfully or recklessly wastes, spoils, or otherwise wilfully and wrongfully destroys or damages any property other than military property of the United States or of this state shall be punished as a court-martial may direct.

Improper hazarding of vessel

Sec. 1034. (a) Any person subject to this Code who wilfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the state military forces shall be punished as a court-martial may direct.

(b) Any person subject to this Code who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the state military forces shall be punished as a court-martial may direct.

Driving while intoxicated or driving while under the influence of a narcotic drug

Sec. 1035. Any person subject to this Code who operates any vehicle while under the influence of intoxicating liquor or a narcotic drug, or in a reckless or wanton manner, shall be punished as a court-martial may direct.

Drunk on duty—sleeping on post—leaving post before relief

Sec. 1036. Any person subject to this Code who is found under influence of intoxicating liquor or narcotic drugs while on duty or sleeping upon his post, or who leaves his post before he is regularly relieved, shall be punished as a court-martial may direct.

Dueling

Sec. 1037. Any person subject to this Code who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court-martial may direct.

Malingering

Sec. 1038. Any person subject to this Code who for the purpose of avoiding work, duty or service in the State military forces:

- (1) Feigns illness, physical disablement, mental lapse, or derangement; or
- (2) Intentionally inflicts self-injury; shall be punished as a court-martial may direct.

Riot or breach of peace

Sec. 1039. Any person subject to this Code who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

Provoking speeches or gestures

Sec. 1040. Any person subject to this Code who uses provoking or reproachful words or gestures towards any other person subject to this Code shall be punished as a court-martial may direct.

Perjury

Sec. 1041. Any person subject to this Code who in a judicial proceeding or in a court of justice conducted under this Code wilfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial may direct.

Frauds against the government

Sec. 1042. Any person subject to this Code:

(1) Who, knowing it to be false or fraudulent:

(A) Makes any claim against the United States, the State of Texas, or any officer thereof; or

(B) Presents to any person in the civil or military service thereof, for approval or payment any claim against the United States, the State of Texas, or any officer thereof:

(2) Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the State of Texas, or any officer thereof:

(A) Makes or uses any writing or other paper knowing it to contain any false or fraudulent statements; or

(B) Makes any oath to any fact or to any writing or other paper knowing the oath to be false; or

(C) Forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

(3) Who, having charge, possession, custody, or control of any money or other property of the United States or the State of Texas, furnished or intended for the armed forces of the United States or the state military forces, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or

(4) Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the State of Texas, furnished or intended for the armed forces of the United States or the state military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements there contained and with intent to defraud the United States or the State of Texas; shall, upon conviction, be punished as a court-martial may direct.

Larceny and wrongful appropriation

Sec. 1043. (a) Any person subject to this Code who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or

of any other person any money, personal property, or article of value of any kind;

(1) With intent permanently to deprive or defraud another person of the use and benefit of property, or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

(2) With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any other person other than the owner, is guilty of wrongful appropriation.

(b) Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

Conduct unbecoming an officer and a gentleman

Sec. 1044. Any commissioned officer who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.

General article

Sec. 1045. Though not specifically mentioned in this Code, all disorders and neglects to the prejudice of good order and discipline in the state military forces and/or all conduct of a nature to bring discredit upon the state military forces, of which persons subject to this Code may be guilty, shall be taken cognizance of by a general, special or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of the court.

PART XI. MISCELLANEOUS PROVISIONS

Courts of inquiry

Sec. 1101. (a) Courts of inquiry to investigate any matter may be convened by the Governor or by any other person designated by the Governor for that purpose, or any person authorized to convene a general court-martial by this Code, whether or not the persons involved have requested such an inquiry.

(b) A court of inquiry consists of three (3) or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

(c) Any person subject to this Code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this Code or employed in the division of military or naval affairs, who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(d) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(e) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

(f) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

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

(g) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(h) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

Authority to administer oaths

Sec. 1102. (a) The following members of the state military forces may administer oaths for the purpose of the administration of military justice and affidavits may be taken for those purposes before persons having the general powers of a notary public.

(1) The State Judge Advocate, assistant state judge advocate, and all judge advocates;

(2) All law specialists;

(3) All summary courts-martial;

(4) All adjutants, assistant adjutants, acting adjutants and personnel adjutants;

(5) All commanding officers of the naval militia;

(6) All legal officers;

(7) The president, law officer, trial counsel, and assistant trial counsel for all general and special courts-martial;

(8) The president and the counsel for the court of any court of inquiry;

(9) All officers designated to take a deposition;

(10) All persons detailed to conduct an investigation; and

(11) All other persons designated by regulations of the Governor.

(b) The signature without seal of any such person, together with the title of his office, is prima facie evidence of his authority.

Sections to be explained

Sec. 1103. Sections 102, 103, 201-301, 504, 506, 702, 801, 1001-1043, and 1103-1105 of this Code shall be carefully explained to every enlisted member at the time of his enlistment or transfer or induction into, or at the time of his order to duty in or with any of the state military forces or within thirty (30) days thereafter. They shall also be explained annually to each unit of the state military forces. A complete text of this Code and of the regulations prescribed by the Governor thereunder shall be made available to any member of the state military forces, upon his request, for his personal examination.

Complaints of wrongs

Sec. 1104. Any member of the state military forces who believes himself wronged by his commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the Governor or Adjutant General.

Redress of injuries to property

Sec. 1105. (a) Whenever complaint is made to any commanding officer that wilful damage has been done to the property of any person or that his property has been wrongfully taken by members of the state military forces, he may subject to such regulations as the Governor may prescribe, convene a board to investigate the complaint. The board shall consist of from one (1) to three (3) commissioned officers, and for the purpose of that investigation, it has power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive, except as provided in subsection (c), on any disbursing officer for the payment by him to the injured parties of the damages so assessed and approved.

(b) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be paid to the injured parties from the military funds of the units of the state military forces to which the offenders belonged.

(c) Any person subject to this Code who is accused of causing wilful damage to property has the right to be represented by counsel, to summon witnesses in his behalf, and to cross-examine those appearing against him. He has the right of appeal to the next higher commander.

Execution of process and sentence

Sec. 1106. (a) In the state military forces not in federal service, the processes and sentences of its courts-martial shall be executed by the civil officers prescribed by the laws of the state.

(b) When the sentence of a court-martial adjudges confinement, and the reviewing authority has approved the same in whole or in part, the reviewing authority, or the commanding officer for the time being, as the case may be, shall issue a warrant of commitment to the sheriff of the county in which such court-martial was held, directing such sheriff to take the body of the person so sentenced and confine him in the county jail of such county for the period named in such sentence, as approved, or until he may be directed to release him by proper authority; and such confinement shall be carried out as prescribed for confinement in jail by the Code of Criminal Procedure of this state.

Process of military courts

Sec. 1107. (a) Military courts may issue any process or mandate necessary to carry into effect their powers. Such a court may issue subpoenas and subpoenas duces tecum and enforce by attachment attendance of witnesses and production of books and records, when it is sitting within the state and the witnesses, books and records sought are also so located.

(b) Process and mandates may be issued by summary courts-martial, provost courts, or the president of other military courts and may be directed to and may be executed by the marshals of the military court or any peace officer and shall be in such form as may be prescribed by regulations issued under this Code.

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

(c) All officers to whom process or mandates may be so directed shall execute them and make return of their acts thereunder according to the requirements of those documents. Except as otherwise specifically provided in this Code, no such officer may demand or require payment of any fee or charge for receiving, executing, or returning such a process or mandate or for any service in connection therewith.

(d) The president of any court-martial, and any summary court officer, shall have authority to issue, under his hand, in the name of the State of Texas, directed to any sheriff or constable, whose duty it shall be to serve or execute the same in the same manner in which like process is served or executed when issued by a magistrate, all necessary process, subpoenas, attachments, warrants, of arrest and warrant of commitment.

Payment of fines, costs, and disposition thereof

Sec. 1108. (a) All fines and forfeitures imposed by general court-martial, shall be paid to the officer ordering such court, and or to the officer commanding for the time being and by said officer, within five (5) days from the receipt thereof, paid to the Adjutant General, who shall disburse the same as he may see fit for military purposes.

(b) All fines and forfeitures imposed by a special or summary courts-martial shall be paid to the officer ordering the court, or the officer commanding for the time being, and by such officer, within five (5) days from the receipt thereof, placed to the credit of the military unit fund of the unit of which the person fined was a member when the fine was imposed.

(c) When the sentence of a court-martial adjudges a fine and cost against any person, and such fine and cost has not been fully paid within ten (10) days after the confirmation thereof, the Governor or officer ordering the court or the officer commanding for the time being, as the case may be; shall issue a warrant of commitment directed to the sheriff of the county in which the court-martial was held, directing him to take the body of the person so convicted and confine him in the county jail for one (1) day for any fine not exceeding One Dollar (\$1) and one (1) additional day for every dollar above that sum, and one additional day for each dollar of cost.

Immunity for action of military courts

Sec. 1109. No accused may bring an action or proceeding against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition, or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.

Presumption of jurisdiction

Sec. 1110. The jurisdiction of the military courts and boards established by this Code shall be presumed and the burden of proof rests on any person seeking to oust those courts or boards of jurisdiction in any action or proceeding.

Delegation of authority by the Governor

Sec. 1111. The Governor may delegate any authority vested in him under this Code, and may provide for the subdelegation of any such authority, except the power given him by Sections 406 and 501 of this Code.

Witnesses expenses

Sec. 1112. (a) Persons in the employ of this state, but not belonging to the military forces thereof, when traveling upon summons as witnesses

before military courts, are entitled to transportation from their place of residence to the place where the court is in session and return. If no transportation be furnished they are entitled to reimbursement of the cost of travel actually performed by the shortest usually traveled route. They are also entitled to reimbursement of the actual cost of meals and rooms at a rate not to exceed Eight Dollars (\$8) per day for each actually and unavoidably consumed in travel, or in attendance upon the court under the order or summons. No allowance will be made to them when attendance upon court does not require them to leave their place of residence.

(b) A person not in the employ of this state and not belonging to the active military forces thereof, who has been duly summoned to appear as a witness before a military court, will receive Eight Dollars (\$8) per day for each day actually in attendance upon the court, and Six Cents (.06¢) a mile for going from his place of residence to the place of trial or hearing, and Six Cents (.06¢) a mile for returning. Civilian witnesses will be paid by the Adjutant General's Department.

(c) The charges for return journeys of witnesses will be made upon the basis of the actual charges allowed for travel to the court, and the entire account thus completed will be paid upon discharge from attendance without waiting for completion of return travel.

(d) No fees shall be allowed to a person as witness fees, unless such person has been subpoenaed, attached, or recognized as a witness in the case.

Arrest, bonds, laws applicable

Sec. 1113. (a) When charges against any person in the military service of this state are made to the Governor, or any officer authorized to convene a court-martial for the trial of such person, and the Governor or such officer, believing that such charges can be sustained, and has reason to believe that the person so charged will not appear for trial, or intends to flee from justice, the Governor, or such officer, may issue a warrant of arrest to the sheriff or any constable of the county in which the person charged resides, or wherein he is supposed to be, commanding the sheriff or constable to take the body of the person so charged and confine him in jail until such time as his case may be finally disposed of; and the sheriff or constable, on the order of the Governor, or officer ordering the court, shall bring the person so charged before the court-martial for trial, or turn him over to whoever the order may direct; the Governor, or the officer issuing the warrant of arrest, shall indorse thereon the amount of bail to be required; and it shall be a violation of duty on the part of any sheriff or constable to permit a person so committed to remain out of jail, except that he may, when such person desires it, permit him to give bail in the sum indorsed on the warrant, conditioned for his appearance, from time to time, before such court-martial as he may be ordered for trial, and until his case is finally disposed of, or until such time as he may surrender to the sheriff or constable as directed by the reviewing authority of the court-martial before which he may be ordered for trial.

(b) Upon the failure of any person, who has been admitted to bail conditioned for his appearance for trial before a court-martial, or upon failure of any person admitted to bail to appear as a witness in any case before a court-martial, as conditioned in the bail bond of any such person, the court-martial shall certify the fact of such failure to so appear to the officer ordering the court-martial, or to the officer commanding for the

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

time being, as the case may be; and such officer shall cause a judge advocate, district or county attorney to file suit in Travis County therefor.

(c) The rules laid down in the Code of Criminal Procedure of this state relating to the giving of bail, the amount of bail, the number of sureties, the persons who may be sureties, the property exempt from liability, the responsibility of parties to the same and all other rules of a general nature not inconsistent with this law are applicable to bail taken as provided in this chapter.

(d) A warrant of arrest issued by the Governor, or other officer authorized to order a court-martial, and all subpoenas and other process issued by courts-martial and courts of inquiry shall extend to every part of the state.

(e) Upon conviction of any person by a court-martial, all costs including the cost accruing for witness fees and the fees for sheriffs or constables for executing the process, subpoenas, writs of attachment, warrant of arrest, warrant of commitment, or any other authorized writs, shall be taxed against defendant; and any sheriff or constable executing any process, subpoena, writ of attachment, warrant of arrest, warrant of commitment, or any other authorized writs, shall be allowed the same fees as provided by the Code of Criminal Procedure in this state. When the defendant is imprisoned for costs the Adjutant General shall pay said costs out of any fund that may be available.

(f) When any lawful process, issued by the proper officer of any court-martial, comes to the hands of any sheriff or constable, he shall perform the usual duties of such officer and perform all acts and duties by this Chapter imposed or authorized to be performed by any sheriff or constable. Failure of any sheriff or constable to perform the duties required by this Section shall be a misdemeanor offense punishable by a fine of not more than One Thousand Dollars (\$1,000) and by confinement of not less than six (6) months and not more than twelve (12) months in jail.

Expenses of administration

Sec. 1114. The Adjutant General shall have authority to pay all expenses incurred in the administration of state military justice from any fund appropriated to the Adjutant General's Department.

Uniformity of interpretation

Sec. 1115. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it, and so far as practical, to make that law uniform with the law of the United States.

Short title

Sec. 1116. This Article may be cited as the "Texas Code of Military Justice." Acts 1963, 58th Leg., p. 209, ch. 112, § 1.

Former article 5788, as originally enacted by Acts 1905, p. 167, was repealed by Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

Art. 5789. Awards, Decorations and Medals

Effect of enactment

Section 1. The enactment of these Sections of this Code shall hereby repeal all Resolutions of previous Legislatures pertinent to the awarding of decorations and awards to personnel of the National Guard, Air National Guard and Reserve of the State of Texas. It shall likewise repeal all general orders issued by the Adjutant General of Texas, pursuant to such

Resolutions. It is further provided, however, that the enactment of this Code shall not affect in any manner the previous awarding of any awards, decorations or medals.

Texas Legislative Medal of Honor

Sec. 2. The Texas Legislative Medal of Honor shall be awarded to any member of the state military forces, who, by voluntary act or acts shall have distinguished himself conspicuously by gallantry and intrepidity at the risk of his life. The deed performed must have been one of personal bravery or self-sacrifice, so conspicuous as to clearly distinguish the individual for gallantry and intrepidity above his comrades and must have involved risk of life. Incontestable proof of the performance of the service will be exacted and each recommendation for the award of the Texas Legislative Medal of Honor will be considered on the standard of extraordinary merit.

Lone Star Medal of Valor

Sec. 3. The Lone Star Medal of Valor shall be awarded to any member of the state military forces who distinguishes himself by specific acts of bravery or outstanding courage, or a closely related series of heroic acts performed within an exceptionally short period of time, which act or acts involve personal hazard or danger and the voluntary risk of life, and which acts result in an accomplishment so exceptional and outstanding as to clearly set the individual apart from his comrades, or from other persons in similar circumstances. The required gallantry for award of the Lone Star Medal of Valor, while of lesser degree than that required for the award of the Texas Legislative Medal of Honor, must nevertheless have been performed with marked distinction.

Award of medals by Governor; approval and recommendation

Sec. 4. The award of the Texas Legislative Medal of Honor shall be made by the Governor upon approval by the Texas Legislature by Concurrent Resolution. The award of the Lone Star Medal of Valor shall be made by the Governor upon recommendation of the Adjutant General of Texas.

Forwarding recommendations; endorsement by Adjutant General

Sec. 5. Recommendations for award of either the Texas Legislative Medal of Honor or the Lone Star Medal of Valor shall be forwarded through channels to the Texas Adjutant General. It shall be the privilege of any individual having personal knowledge of an act or achievement believed to warrant the award of either decoration to submit a recommendation in letter form to the Adjutant General, giving an account of the occurrence, and accompanying such recommendation with statements of eyewitnesses, extracts from official records, sketches, maps, diagrams or photographs so as to support and amplify stated facts. Upon determination by the Adjutant General that any individual case meets the criteria prescribed for the awarding of the Texas Legislative Medal of Honor as prescribed in Section 2 of this Article, he shall by endorsement recommend to the Governor the awarding of said Texas Legislative Medal of Honor in accordance with Section 4 of this Article.

Design and manufacture of medals; ribbons

Sec. 6. (a) The Adjutant General of the State of Texas is hereby directed to design, and cause to be manufactured, the Texas Legislative Medal of Honor and the Lone Star Medal of Valor, and such other awards, decorations, medals and ribbons as this Statute gives him the right to award.

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

(b) The Adjutant General of Texas shall promulgate rules and regulations to prescribe when ribbons may be appropriately worn in lieu of medals, provided the ribbon symbolizes the appropriate medal.

Rules and regulations pertaining to awards, decorations, medals and ribbons

Sec. 7. The Adjutant General is hereby authorized to promulgate rules and regulations pertaining to the following awards, decorations, medals and ribbons:

(a) Texas Faithful Service Medal. It shall be awarded to any member of the state military forces who has completed five (5) consecutive years of honorable service therein, during which period he has shown fidelity to duty, efficient service and great loyalty to this state.

(b) Federal Service Medal. It shall be awarded to any person inducted into federal service with the state military forces, between June 15, 1940, and January 1, 1946; and after June 1, 1950; provided, that such federal service was for a period in excess of nine (9) months with the Armed Forces of the United States.

(c) Texas Medal of Merit. It may be presented to any member of the state military forces who distinguishes himself through outstanding service, or extraordinary achievement, in behalf of the state, or the United States.

Posthumous awards

Sec. 8. Awards may be made following the decease of the person being honored in the same manner as they are made for the living person, except that the orders and citation will indicate that the award is being made posthumously. Acts 1963, 58th Leg., p. 209, ch. 112, § 1.

Section 2 of the amendatory act of 1963 was a severability provision; section 3 thereof provided: "Sec. 3. Repealer. Title 94, Chapter 3, of the Civil Statutes of Texas, 1925, as amended prior to the 58th Legislature, is hereby repealed; and Acts, 51st Legislature, page 445, Chapter 239, Section 1, 1949, (compiled in Vernon's Annotated Civil Statutes as Article 5790a); Acts, 41st Legislature, page 500, Chapter 238, Section 1, 1929 (compiled in Vernon's Annotated Civil Statutes as Article 5796a); Acts, 51st Legislature, page 1206, Chapter 613, Section 1, 1949 (compiled in Vernon's Annotated Civil Statutes as Article 5798a-2, Section 1); Acts, 52nd Legislature, page 597, Chapter 351, Section 1, 1951, and Acts, 56th Legislature, page 23, Chapter 13, Section 1, 1959 (compiled in Vernon's Annotated Civil Statutes as Article 5798a-2, Section 2); Acts, 49th Legislature, page 16, Chapter 12, 1945 (compiled in Vernon's Annotated Civil Statutes as Article 5798a-2, Section 5); Acts 50th Legislature, page 365, Chapter 207, Section 1, 1947 (compiled in Vernon's Annotated Civil Statutes as Article 5798a-3); Acts, 50th Legislature, page 723, Chapter 363, 1947 (compiled in Vernon's Annotated Civil Statutes as Article 5798a-4); Acts, 40th Legislature, page 262, Chapter 183, Section 2, 1927 (compiled

in Vernon's Annotated Civil Statutes as Article 5837a) Acts, 41st Legislature, Second Called Session, page 45, Chapter 29, 1929 (compiled in Vernon's Annotated Civil Statutes as Article 5837b); Acts, 55th Legislature, page 1360, Chapter 461, Section 2, 1957 (compiled in Vernon's Annotated Civil Statutes as Article 5845a); Acts, 55th Legislature, page 281, Chapter 130, Section 1, 1957; Acts 56th Legislature, page 488, Chapter 218, Section 1, (compiled in Vernon's Annotated Civil Statutes as Article 5890b, Section 1); Acts 44th Legislature, page 462, Chapter 184, 1935; Acts, 45th Legislature, page 740, Chapter 366; Acts, 46th Legislature, page 487, Section 1, 1939 (compiled in Vernon's Annotated Civil Statutes as Article 5890b, Section 4); Acts, 51st Legislature, page 467, Chapter 251, Section 1, 1949 (compiled in Vernon's Annotated Civil Statutes as Article 5890b, Section 5); and Acts, 46th Legislature, page 494, 1939 (compiled in Vernon's Annotated Civil Statutes as Article 5890c) are hereby repealed and all laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict only."

Former article 5789, as originally enacted by Acts 1905, p. 167, was repealed by Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

Arts. 5790-5890c. Repealed. Acts 1963, 58th Leg., p. 209, ch. 112, § 3.

See, now, arts. 5780-5789, ante.

CHAPTER 3A. NATIONAL GUARD—MISCELLANEOUS PROVISIONS

Art.
5890d. Refunding bonds of Texas National
Guard Armory Board [New].

Art. 5890d. Refunding bonds of Texas National Guard Armory Board

Section 1. The Texas National Guard Armory Board is hereby authorized to provide by resolution for the issue of refunding bonds for the purpose of refunding any bonds issued under the provisions of Chapter 366, Senate Bill No. 402, of the Regular Session of the 45th Legislature, Acts, 1937, page 740, and/or Chapter 2, Senate Bill No. 326, of the Regular Session of the 46th Legislature, Acts, 1939, page 487;¹ provided, however, that this authority to issue refunding bonds is limited to those situations where a savings in interest can be effected thereby.

Sec. 2. The issuance of such refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the Board in respect to the same shall be governed by the provisions of Chapter 2, Senate Bill No. 326, of the Regular Session of the 46th Legislature, Acts, 1939, page 487, codified as Article 5890b of the Revised Civil Statutes of the State of Texas, insofar as the same may be applicable. Acts 1963, 58th Leg., p. 626, ch. 231.

¹ Article 5890b.

Effective 90 days after May 24, 1963, date of adjournment. National Guard Armory Board, see art. 5786, § 7.

TITLE 97—NAME**CHAPTER ONE—ASSUMED NAME****Art. 5924. Business under assumed names**

Foreign corporation, corporate name, see V.A.T.S. Bus. Corp. Act, art. 8.03. Foreign insurance corporations, see V.A. T.S. Insurance Code, art. 21.43.

TITLE 98—NEGOTIABLE INSTRUMENTS ACT**Art. 5947. Promissory notes and checks**

Sale of checks act, see art. 489d.

TITLE 101—OFFICIAL BONDS**Article 5998. Sureties**

Oil well servicing units, length see Vernon's Ann.P.C. art. 827a—5.

TITLE 102—OIL AND GAS

Art. 6008 [7849] Production and use of natural gas

Production and sale of gas from common reservoir where demand is seasonal

Sec. 14. In order to adjust the correlative rights and opportunities of each owner to produce, use and sell gas from a common reservoir from which a portion of the market demand is seasonal or where a portion thereof fluctuates from month to month, the Commission may permit the wells in such reservoir to be produced in excess of the monthly allowable if no waste is occasioned thereby, provided (1) no well shall in any one month be permitted to produce in excess of two (2) times its monthly allowable or upon application to the Commission where there is shown to exist, or there is threatened and unforeseen, an emergency requiring an increase in the demand for such gas from such reservoir which cannot otherwise be satisfied from such reservoir, then such wells, under such application, may be produced as herein authorized but not in excess of four (4) times each of said well's monthly allowable; or to produce at a rate in excess of twenty-five per cent (25%) of the daily producing capacity of such well as found by the Commission; that (2) no well shall ever be allowed to produce in excess of twice its allowable for more than two (2) months in any period of six (6) months beginning on the 1st day of March and September of each year, and when any well has produced twice its allowable or more during any such six (6) month period as above it shall be closed in until its production and allowable are in balance; and that (3) the Commission shall, on the 1st day of March and September of each year, restrict production from all wells that are then overproduced to such fractional part of their monthly allowable as will bring the accumulated allowables and the accumulated monthly production in balance during the next six (6) months. If such over production is not balanced during such six (6) month period, then the overproduced well shall be shut in until its production and allowable are in balance. In like manner the Commission may by appropriate order permit any gas well to be underproduced for a period of six (6) consecutive months and may allow the accumulated underproduction to be produced in addition to the regular monthly allowable during the following six (6) month period. As amended Acts 1963, 58th Leg., p. 590, ch. 213, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6032. Tax

Abolition of the oil and gas enforcement fund and creation of the railroad commission operating fund, see art. 6519b.

Art. 6032e. Transfer of surplus

Abolition of the oil and gas enforcement fund and creation of the railroad commission operating fund, see art. 6519b.

Art. 6049. Salary of expert and other expenses

Abolition of the oil and gas enforcement fund and creation of the railroad commission operating fund, see art. 6519b.

Art. 6066. Expenditures

Abolition of gas utilities fund and creation of the railroad commission operating fund, see art. 6519b.

Art. 6066d. Liquefied Petroleum Gas Code

Abolition of liquefied petroleum gas fund, and citation of railroad commission operating fund, see art. 6519b.

Operation of commercial vehicles by persons other than owner, see art. 6701c—1.

TITLE 103—PARKS

<p>2. SAN JACINTO BATTLEGROUND</p> <p>Art. 6071a. Change of names [New].</p> <p>4K. FANNIN STATE BATTLEGROUND</p> <p>6077m—1. Change of names [New].</p> <p>4R. PADRE ISLAND NATIONAL SEASHORE [NEW]</p> <p>6077t. Padre Island National Seashore.</p>	<p>Art. 6079d—2. Validation of county park bond elections, proceedings and bonds; counties of more than 1,000,000 [New].</p> <p>6081g—2. Validation of acts and proceedings of cities of 60,000 bordering on Gulf of Mexico for park purposes in tidelands and waters [New].</p> <p>6081j. Cities over 650,000; construction of park facilities [New].</p>
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1. STATE PARKS BOARD

Art. 6067. Creating Board

The State Parks Board was abolished and its powers, duties and authority were transferred to the Parks and Wildlife Department. See Vernon's Ann.P.C. art. 978f—3a.

Art. 6069. Duty of board

The State Parks Board was abolished and its powers, duties and authority were transferred to the Parks and Wildlife Department. See Vernon's Ann. P.C. art. 978f—3a.

2. SAN JACINTO BATTLEGROUND

Art. 6071a. Change of name

Section 1. The name of San Jacinto State Park, located in Harris County, Texas, is hereby changed to San Jacinto Battleground, and the name of the San Jacinto State Park Commission now operating the battleground is hereby changed to San Jacinto Battleground Commission.

Sec. 2. Wherever the name San Jacinto State Park and the name San Jacinto State Park Commission appear in the Statutes of this State, such names and such references shall hereafter mean and apply to San Jacinto Battleground and San Jacinto Battleground Commission, respectively. All appropriations and benefits to San Jacinto State Park and San Jacinto State Park Commission shall be available and apply to San Jacinto Battleground and San Jacinto Battleground Commission, and all deeds and contracts effected under the old names shall likewise be applicable under the new names. Acts 1963, 58th Leg., p. 722, ch. 264.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 722, ch. 264, §§ 3, 4, incorporated in the Civil Statutes as article 6077m—1, changed the name of

Fannin State Park to Fannin State Battleground and the name of Fannin State Park Commission to Fannin State Battleground Commission.

4K. FANNIN STATE BATTLEGROUND

Art. 6077m-1. Change of name

Sections 1, 2. [Codified as article 6071a.]

Sec. 3. The name of Fannin State Park, located in Goliad County, Texas, is hereby changed to Fannin State Battleground, and the name of the Fannin State Park Commission now operating the battlefield is hereby changed to Fannin State Battleground Commission.

Sec. 4. Wherever the name Fannin State Park and the name Fannin State Park Commission appear in Statutes of this State, such names and such references shall hereafter mean and apply to Fannin State Battleground and Fannin State Battleground Commission, respectively. All appropriations and benefits to Fannin State Park and Fannin State Park Commission shall be available and apply to Fannin State Battleground and Fannin State Battleground Commission, and all deeds and contracts effected under the old names shall likewise be applicable under the new names. Acts 1963, 58th Leg., p. 722, ch. 264.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 722, ch. 264, §§ 1, 2, incorporated in the Civil Statutes as article 6071a, changed the name of San Ja-

cinto State Park to San Jacinto Battleground and the name of the San Jacinto State Park Commission to San Jacinto Battleground Commission.

4M. OIL AND GAS LEASES OF PARK LANDS

Art. 6077o. Leasing for oil and gas

Board for lease of state park lands created

Section 1. A Board is hereby created to consist of the Commissioner of the General Land Office, one (1) citizen of the state, appointed by the Attorney General with the advice and consent of the Senate, who shall serve for a term of two (2) years, and the chairman of the Parks and Wildlife Commission, who shall perform the duties hereinafter indicated; the Board shall be known as the "Board for Lease of State Park Lands." The term "Board" wherever it appears hereafter in this Act shall mean the Board for Lease of State Park Lands. This Board shall keep a complete record in writing of all its proceedings. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Lease of lands of state departments, boards and agencies, see art. 5382d.

Oil and gas lands of state eleemosynary and state memorial park lands, lease, see art. 3183a.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

4R. PADRE ISLAND NATIONAL SEASHORE

Art. 6077t. Padre Island National Seashore

Area

Section 1. The surface estate of that part of the following described lands situated in Kleberg, Kenedy, and Willacy Counties, Texas, to which the State of Texas has title or that have been acquired or that may become vested under any previous Act or Acts, shall be and is hereby established, dedicated and set apart as a public park for the benefit and enjoyment of the people. The surface estate in the following described lands shall be designated as the "Padre Island National Seashore," which area is described as follows:

BEGINNING at a point one statute mile North of the North end of North Bird Island on the easterly line of the Intracoastal Waterway;

THENCE due East to a point on Padre Island one statute mile West of the mean high water line of the Gulf of Mexico;

THENCE southwesterly paralleling the said mean high water line of the Gulf of Mexico a distance of three and five-tenths statute miles;

THENCE due east to the two-fathom line on the east side of Padre Island as depicted on United States Coast and Geodetic Survey chart numbered 1286;

THENCE along the said two-fathom line on the east side of Padre Island as depicted on United States Coast and Geodetic Survey charts numbered 1286, 1287, and 1288 to the Willacy-Cameron County line extended;

THENCE westerly along said county line to a point 1,500 feet west of the mean high water line of the Gulf of Mexico as that line was determined by the survey of J. S. Boyles and is depicted on sections 9 and 10 of the map (on file in the General Land Office) entitled "Survey of Padre Island made for the office of the Attorney General of the State of Texas", dated August 7 to 11, 1941, and August 11, 13, and 14, 1941, respectively;

THENCE northerly along a line parallel to and 1,500 feet west of said survey line of J. S. Boyles, to a point on the centerline of the Port Mansfield Channel;

THENCE westerly along said centerline to a point three statute miles west of the said two-fathom line;

THENCE northerly parallel with said two-fathom line to a point on 27 degrees 20 minutes north latitude;

THENCE west along said latitude to the easterly line of the Intracoastal Waterway;

THENCE northerly following the easterly line of the Intracoastal Waterway as indicated by channel markers in the Laguna Madre to the point of BEGINNING.

Boundary line with privately-owned land

Sec. 1a. Nothing in this bill is intended to extend any recognition to any particular line as being the boundary line between the state-owned portion of the seashore and the privately-owned land.

Withdrawal of surface estates from sale

Sec. 2. The Legislature of the state of Texas hereby withdraws from sale the surface estates of all state-owned lands in said area regardless of the purpose or purposes for which they are held and regardless of the instrumentality of the state for which they are held.

**Deed of conveyance; consideration; execution; jurisdiction;
reservation; mineral interests**

Sec. 3. The United States of America through the Secretary of Interior is granted permission, subject to the limitations contained in this Act, to acquire the area that has been defined as Padre Island National Seashore and the School Land Board of the State of Texas is hereby authorized and directed forthwith to execute a deed of conveyance to the United States of America conveying all of the right, title and interest of the State of Texas in the surface estate of all lands described in Section 1 hereof, subject to the exceptions and reservations hereinafter set forth under the terms of this Act, for the Padre Island National Seashore for the use of the public as a recreation area, in consideration of the United States of America agreeing to establish and maintain the land described in Section 1 hereof as a National Seashore area, as provided for under an Act of Congress, being Public Law 87-712, enacted by the 87th Congress of the United States, and to cede to the United States of America jurisdiction over said lands, and including lands acquired under Section 6 hereof, in conformity with the provisions of Article 5247, Revised Civil Statutes of Texas 1925. Said deed shall be executed by a majority of the then members of the School Land Board and shall also reserve to the State of Texas the right of concurrent jurisdiction with the United States of America, both civil and criminal, over every portion of the lands described in Section 1 hereof, so that all process, civil and criminal, issuing under the authority of this state or any of the courts or judicial officers thereof, may be executed by the proper officers of the state, upon any person amenable to the same within the limits of the land constituting the "Padre Island National Seashore," as set out in Section 1 hereof, in like manner and like effect as if no such cession had taken place; and, reserving further to the state the right to levy and collect taxes on sales, use or gross receipts from sales of products or commodities upon which a tax is levied in this state, and to tax persons and corporations, their franchises, properties and incomes, on land or lands conveyed under the terms of this Act; and reserving also, to persons residing in or on any of the land or lands conveyed, the right to vote at all elections within the counties in which said land or lands are located, upon like terms and conditions and to the same extent as they would be entitled to vote in such counties had not such lands been conveyed as aforesaid to the United States of America.

Said state land shall not be conveyed unless the entire mineral interest is reserved in the state, and unless the right of occupation and use of so much of the surface of the land or waters as may be required for all purposes reasonably incident to the mining, development, or removal of the minerals, is adequately protected.

In all conveyances of said park property under Sections 3 and 6 hereof to the United States of America, the Secretary of the Interior shall permit a reservation by the grantor of all oil, gas, and other minerals in such land or waters with the right of occupation and use of so much of the surface of the land or waters as may be required for the purposes of

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

reasonable development of oil, gas and other minerals, under such rules and regulations as may be established by the Railroad Commission of the State of Texas. The Railroad Commission shall submit a copy of any proposed rules and regulations affecting the National Seashore area to the United States Department of Interior, Washington, D. C., by certified mail. The Department of Interior shall have thirty (30) days from receipt thereof to submit, by certified mail, to the Railroad Commission of Texas, any objection or exceptions to such proposed regulations. Thereupon, such rules and regulations, with amendments, if any, promulgated by the Railroad Commission of Texas, shall become effective. It is the intention of the Legislature of the State of Texas that the use of said land for this purpose be carried out in such a manner as to not unreasonably interfere with the use of said land for park purposes.

List of lands owned by state

Sec. 4. The Commissioner of the General Land Office shall prepare a list of the lands now owned in said area by the State of Texas or its instrumentalities for any purpose and deliver a certified copy of such list to the School Land Board for its records.

Suit to enlarge title granted by deeds

Sec. 5. Any deed executed pursuant to the authority hereinabove set out shall be null and void and of no force and effect and any and all rights, titles, and interests granted and conveyed thereby shall revert to the State of Texas upon the initiation by any agent, agency, officer, department, or employee of the Federal Government of the United States, whether appointed or elected, of a suit at law or in equity in any Federal Court of the United States to enlarge or expand the titles, rights, or interests granted by said deed or deeds.

Acquisition of surface estate of land not owned by state; reservations and regulations

Sec. 6. The United States of America, through the Secretary of the Interior, is hereby authorized to purchase, condemn, receive, hold and acquire title to the surface estate of any land not owned by the state in the area above-described as the Padre Island National Seashore for use as a recreational park; provided that the acquisition of lands in such area shall not deprive the grantor or successor in title of the right of ingress and egress for the purpose of exploring for, developing, processing, storing and transporting minerals from beneath said lands and waters with the right of housing employees for such purposes. The same reservations and regulations enumerated in Section 3 hereof, relating to civil and criminal jurisdiction, process, levy and collection of taxes, mineral development, and voting rights, shall apply to all lands acquired by the United States of America under this Section.

Surface estate and interests of Willacy County Navigation District

Sec. 7. The surface estate in and to the lands, spoil banks, easements or rights-of-way owned, leased or otherwise controlled by the Willacy County Navigation District may be acquired for inclusion in Padre Island National Seashore with the consent of the District. All such surface estates in and to lands, spoil banks, easements and rights-of-way owned, leased or otherwise controlled by the Willacy County Navigation District located in the Padre Island National Seashore shall be used solely for public purposes.

Roadways

Sec. 8. The Secretary of the Interior is requested to provide for roadways from the north and south boundaries of such public recreation area to the access highways from the Mainland to Padre Island. For the purpose of this Section, the south boundary shall be considered the Port Mansfield cut.

Reversion

Sec. 9. If the United States of America (1) fails to acquire the surface estate in two-thirds of the total privately-owned land located within the Padre Island National Seashore Area as defined in Section 1 of this Act within ten (10) years from the date of acquisition by the United States of America of the state-owned portion of the land described in Section 1 hereof, or (2) after such ten-year period ceases to use the surface estate of the privately-owned land so acquired under the authority of this Act for a national seashore area as contemplated herein, then in either event, all state-owned lands conveyed to the United States of America under the authority of Section 3 hereof shall ipso facto and without further action by any of the parties hereto revert to the State of Texas and to the fund to which they belonged prior to the passage of this Act, unless such reversion shall be waived by the Legislature of the State of Texas during the biennium following the happening of either of the conditions of reversion.

Severability

Sec. 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Conflicting laws

Sec. 11. All laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict only. Acts 1963, 58th Leg., p. 56, ch. 38.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

Acquisition of land for federal use, see art. 5242 et seq.

An Act relating to the creation of Padre Island National Seashore; containing a reverter clause; and declaring an emergency. Acts 1963, 58th Leg., p. 56, ch. 38.

Art. 6079c. Parks in counties on Gulf having suitable island, islands, or part of island

Speed of vehicles in parks of counties bordering Gulf of Mexico, see Vernon's Ann. P.C. art. 827g.

Art. 6079d—2. Validation of county park bond elections, proceedings and bonds; counties of more than 1,000,000

Section 1. That all county park bond elections heretofore held in any county with a population of more than one million (1,000,000) at the last preceding Federal Census on the proposition of issuing bonds of the county for the purpose of purchasing and/or improving lands for park purposes, at which election more than a majority of the duly qualified resi-

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

dent electors of the county who owned taxable property within said county and who had duly rendered the same for taxation, voting at such election, voted in favor of the issuance of such bonds, are hereby in all things validated; and all the proceedings relating to such elections are hereby in all things validated; and all such bonds authorized at said elections, whether such bonds have yet been issued or not, are hereby in all things validated.

Sec. 2. This Act shall have no application to litigation pending in any court of competent jurisdiction in this State on the effective date hereof questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same, nor shall this Act apply to any matters which have heretofore been declared invalid by a court of competent jurisdiction in this State. Acts 1963, 58th Leg., p. 806, ch. 309.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6081e. Acquisition of lands and buildings for parks, playgrounds, historical museums and sites

Authorization to acquire lands and buildings

Section 1. Any county or any incorporated city of this state, either independently or in cooperation with each other, or with the Texas State Parks Board, may acquire by gift, devise, or purchase or by condemnation proceedings, lands and buildings, to be used for public parks, playgrounds or historical museums, or lands upon which are located historic buildings, sites, or landmarks of state-wide historical significance associated with historic events or personalities or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological sites, or sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historical buildings, markers, monuments, or other historical features, such lands to be situated in any locality in this state and in tracts of any size which are deemed suitable by the governing body thereof, situated within the state either within or without the boundary limits of such city, but within the boundary limits of said county and within the limits of said county wherein said city lies or is situated. Any county or incorporated city of this state, either independently or in cooperation with each other, may acquire by gift or purchase any historic book, painting, sculpture, coin, or collections of any such objects, or collections of any kind, of historical significance to such city or county or combinations of cities and counties.

Eminent domain

Sec. 1A. The right of eminent domain conferred above as relating to historical sites, buildings, and structures shall not be exercised except upon a proper showing that it is necessary to prevent destruction or deterioration of the historical site, building or structure.

Bonds and taxes

Sec. 2. To purchase and/or improve lands, buildings, or historically significant objects for park purposes or for historic and prehistoric preservation purposes, an incorporated city and/or county may issue bonds, and may levy a tax not exceeding ten cents (10¢) on the One Hundred Dollars (\$100) 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 cents (10¢) on the One Hundred Dollars (\$100) of valuation notwithstanding the provisions of Article 6080 of the Revised Civil Statutes of 1925.

Validation of bond issues

Sec. 2a. That where a majority of the resident property taxpayers, being qualified electors of any city, town and/or county in this state, voting on the proposition having voted at an election held in such city, town and/or county in favor of the issuance of bonds of such city, town and/or county the levy of taxes upon the taxable property therein, for the purpose of paying the interest on said bonds and providing a sinking fund for the redemption thereof, for the purposes of purchasing and improving lands, buildings, or historically significant objects, for a public park, historical museum, or historic or prehistoric site in and for said city, town and/or county, the canvass of said vote revealing such majority having been recorded in the minutes of the governing body of such city, town and/or county by ordinance or resolution adopted and recorded in its minutes, authorized the issuance of such bonds, prescribed the date and maturity thereof, the rate of interest the bonds were to bear, the place of payment of principal and interest, and providing for the levy of taxes upon taxable property in such city, town and/or county to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity under the authority of Section 2, Chapter 148, of the General Laws passed by the 42nd Legislature at its Regular Session in 1931, and such bonds having been approved by the Attorney General and registered by the Comptroller of the State of Texas, each such election, and all Acts and proceedings had and done in connection therewith by the governing body of such city, town and/or county in respect of such bonds and the levy of such taxes, are hereby legalized, approved and validated; and power and authority is hereby expressly conferred upon the governing body of such city, town and/or county to adopt all orders, resolutions and ordinances, and to do all other and further acts necessary in the issuance or sale of such bonds, and such governing body is hereby expressly authorized and empowered to levy a direct general ad valorem tax upon all taxable property in said city, town and/or county for the purpose of paying the interest on and the principal of said bonds; provided, that the aggregate amount of bonds issued for park purposes shall never reach an amount where the tax of ten cents (10¢) on the One Hundred Dollars (\$100) valuation of property will not pay current interest and provide a sinking fund sufficient to pay the principal at maturity, and the amount of bonds issued for park purposes under Acts passed prior to the enactment of Chapter 148, of the General Laws, passed by the 42nd Legislature at its Regular Session in 1931, shall be computed and estimated in the amount of bonds which may be issued by any city, town and/or county for park purposes; it being the intent of said Chapter 148 to repeal all laws, and parts of laws, in conflict therewith.

Certain cities authorized to issue bonds and levy taxes

Sec. 2b. That where a majority of the resident property taxpayers, being qualified electors of any city in this state having a population of not less than 1525 and not more than 1550 according to the last preceding Federal Census, and by any city having a population of not less than 4400

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

and not more than 4500 according to the last preceding Federal Census, voting on the proposition, having voted at an election held in such city in favor of the issuance of bonds of such city, and the levy of taxes upon taxable property therein for the purpose of paying the interest on said bonds and providing a sinking fund for the redemption thereof, for the purpose of park improvements, historical museum improvements, or the improvement of historic or prehistoric sites in and for such city, the canvass of said vote revealing such majority having been recorded in the minutes of the governing body of such city, and the governing body of such city, by ordinance or resolution adopted and recorded in its minutes, having authorized the issuance of such bonds, prescribed the date and maturity thereof, the rate of interest the bonds were to bear, the place of payment of principal and interest, and provided for the levy of taxes upon the taxable property in such city to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity, each such election and all acts and proceedings had and done in connection therewith and in respect of such bonds and the levy of such taxes by the governing body of such city are hereby legalized, approved and validated; and power and authority is hereby expressly conferred upon the governing body of such city to adopt all orders, resolutions and ordinances and to do all and further acts necessary in the issuance or sale of such bonds, and such governing body is hereby expressly authorized and empowered to levy a direct general ad valorem tax upon all taxable property in such city for the purpose of paying the interest on and the principal of said bonds; provided, that the aggregate amount of bonds issued for park improvements shall never reach an amount where the tax of ten cents (10¢) on the One Hundred Dollars (\$100) valuation of property will not pay current interest and provide a sinking fund sufficient to pay the principal at maturity.

Management and control of parks, historic sites and museums

Sec. 3. All parks acquired by authority of this Act shall be under the control and management of the city or county acquiring same or by the city and county jointly, where they have acted jointly in acquiring same, provided that the Commissioners Court and the city commission or city council 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 city, according to the agreement to be made between such municipalities and the State Parks Board. All historic or prehistoric sites, historical museums or historically significant objects acquired by authority of this Act shall be under the control and management of the city or county acquiring same or by the city and county jointly, where they have acted jointly in acquiring same.

All counties and incorporated cities are authorized to levy a tax of not exceeding five cents (5¢) on the One Hundred Dollars (\$100) property valuation to create a fund for the improvement and operation of such parks.

Sale or lease of concessions

Sec. 4. The management in charge of any park, historical museum, or historic or prehistoric site, created by authority of this Act shall have the right to sell and lease concessions for the establishment and operation of such amusements, stores, filling stations and all such other concerns as are consistent with the operation of a public park or the preservation of the noteworthy features of a historic or prehistoric site or his-

torical museum, the proceeds of such sales and rentals to be used for the improvement and operation of the park.

**Public use of parks, playgrounds, historical museums and sites;
cooperation of state parks board**

Sec. 5. All parks, playgrounds, historical museums and their contents, or historic or prehistoric sites acquired and maintained under the provisions of this Act shall remain open for the use of the public under such rules and regulations as the governing body or bodies having the control and management of the same may from time to time prescribe. The Texas State Parks Board is hereby authorized to cooperate with any city and/or county in the acquisition and establishment of parks and playgrounds, and the Texas State Parks Board is hereby authorized to make such rules and regulations for the acquisition, establishment and operation of such parks and playgrounds with any city or county as said State Parks Board and city or county may deem advisable, and provided that the Governor and the State Prison Board may permit the use of state convicts for the improvement and maintenance of such parks under such provisions as may be made by the State Parks Board with said cities and/or counties. As amended Acts 1963, 58th Leg., p. 619, ch. 227, § 1.

Effective 90 days after May 24, 1963, date of adjournment. State building commission, historical monuments and memorials, see art. 678m, § 15.

County historical survey committee, see art. 6145a.

Art. 6081g. Cities of 60,000 or more bordering on Gulf of Mexico granted use and occupancy for park purposes of tidelands and waters

Validation of acts and proceedings of cities of 60,000 bordering on Gulf of Mexico for park purposes in tidelands and waters, see art. 6081g—2.

Art. 6081g—2. Validation of acts and proceedings of cities of 60,000 bordering on Gulf of Mexico for park purposes in tidelands and waters

This Act shall apply to any city in the State of Texas bordering upon the Gulf of Mexico which has a population of sixty thousand (60,000) or more inhabitants. All acts and proceedings heretofore taken or had by any such city, or the governing body thereof, under the provisions of Chapter 7, Acts of the 47th Legislature of Texas, Regular Session, 1941, as said Chapter 7 was originally enacted, or as said Chapter 7 was amended by Chapter 525, Acts of the 57th Legislature of Texas, Regular Session, 1961,¹ are hereby in all things validated. Without in any way limiting the generality of the foregoing, it is expressly provided that all bond proceedings, contracts, leases, and agreements heretofore authorized, or entered into, by any such city, or its governing body, under the provisions of said Chapter 7 (as originally enacted or as amended), are hereby in all things validated. Acts 1963, 58th Leg., p. 1175, ch. 460, § 1.

¹ Article 6081g.

Effective 90 days after May 24, 1963, date of adjournment.

which questions the legality of the matters hereby validated."

Acts 1963, 58th Leg., p. 1175, ch. 460, § 2, provided: "The validation provisions of this Act shall have no application to litigation pending on the effective date hereof

Cities of 60,000 or more bordering on Gulf of Mexico granted use and occupancy for park purposes of tidelands and waters, see art. 6081g.

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

Art. 6081j. Cities over 650,000; construction of park facilities

Eligible cities

Section 1. This Act shall be applicable to any city having a population in excess of 650,000, according to the most recent Federal Census, hereinafter called "Eligible City."

Authorization; use for exhibitions, concessions and entertainment

Sec. 2. An Eligible City is authorized to construct buildings, improvements and structures to be used in its park or fairgrounds for exhibitions, concessions and entertainment, and to acquire additional land therefor, if needed, and may acquire, repair, improve and enlarge buildings and structures to be used for such purposes. Such improvements, buildings and structures owned and to be owned by an Eligible City are herein called "Park Facilities."

Lease or contract for operation of facilities

Sec. 3. An Eligible City is authorized to make a lease of, or a contract for the operation of any or all of the Park Facilities with such terms and for such length of time as may be prescribed by the governing body of the City.

TITLE 105—PARTNERSHIP AND JOINT STOCK COMPANIES

CHAPTER TWO—UNINCORPORATED JOINT STOCK COMPANIES

Art. 6133. [6149] Suit in company name

Distribution to shareholders of cash or property held in suspense, escrow or trust by business organizations or associations, see art. 1358a.

CHAPTER THREE—REAL ESTATE INVESTMENT TRUSTS

Art. 6138A. Texas Real Estate Investment Trust Act

Condominium act, see art. 1301a.

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TITLE 106—PATRIOTISM AND THE FLAG

Art. 6144f.—Texas Tourist Development Agency [New].	Art. 6145.1 County Historical Survey Com- mittee [New].
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Commissioners court, appropriations for erection of historical markers and monuments, see art. 2372r.

Art. 6144e. Advertising resources of Texas

Section 1. Repealed. Acts 1963, 58th Leg., p. 370, ch. 137, § 5. Eff. 90 days after May 24, 1963, date of adjournment.

Sec. 2. Repealed. Acts 1963, 58th Leg., p. 370, ch. 137, § 5. Eff. 90 days after May 24, 1963, date of adjournment.

Art. 6144f. Texas Tourist Development Agency**Creation of agency; administrator; advisory board; terms of office**

Section 1. There is hereby created the Texas Tourist Development Agency which shall be under the direction of one Administrator, and assisted by a six-member Advisory Board.

(a) The Administrator shall be appointed by the Governor and shall serve at the pleasure of the Governor during the term of the Governor.

(b) The Advisory Board shall consist of six (6) members, who shall be appointed by the Governor, with the advice and consent of the Senate. Two (2) members shall be appointed for terms of two (2) years, two (2) shall be appointed for terms of four (4) years, and two (2) shall be appointed for terms of six (6) years. Thereafter, upon the expiration of the terms of office of any members so appointed, all members shall be appointed for terms of six (6) years. The members of this Board shall be comprised of qualified persons in the advertising and promotion industry, but especial care shall be taken to eliminate any possible conflict of interest. The members of the Advisory Board shall serve without remuneration but may be reimbursed for actual expenses incurred by reason of attendance of meetings of the Board.

Administering funds

Sec. 2. The Texas Tourist Development Agency shall be charged with the responsibility of administering funds appropriated to it in accordance with the provisions of this Act so far as possible to achieve the following:

(a) Promote and advertise, by means of radio, television, and newspapers and other means deemed appropriate, tourism to Texas by non-Texans, including persons from foreign countries, and to promote travel by Texans to the State's scenic, historical, natural, agricultural, educational, recreational and other attractions.

(b) Coordinate and stimulate the orderly but accelerated development of tourist attractions throughout Texas.

(c) Conduct in the broadest sense a public relations campaign to create a responsible and accurate national and international image of Texas.

(d) Cooperate fully with the agency in charge of operations of the State's park system in all matters relating to promotion of tourism.

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

(e) Cooperate with the Texas Highway Commission in the administration of the Highway Commission's collateral program of highway map distribution and operation of Travel Information Bureaus and other tourist related functions conducted by the Texas Highway Commission.

(f) Encourage Texas communities, organizations, and individuals to cooperate with its program by their activities and use of their own funds and to collaborate with these organizations and other governmental entities in the pursuit of the objectives of this Act.

Employment of personnel and consultants; equipment

Sec. 3. The Administrator shall be authorized to employ such personnel and consultants on a fee or other basis and to secure such equipment as is deemed necessary to the accomplishment of the purposes of this Act; however, the Advisory Board shall approve any and all contracts for advertising made in order to carry out the provisions of this Act.

Names and pictures of living state officials

Sec. 4. Neither the name nor the picture of any living State Official shall ever be used in any manner for advertising purposes under the provisions of this Act. Acts 1963, 58th Leg., p. 370, ch. 137.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 370, ch. 137, § 5, repealed sections 1 and 2 of art. 6144e.

Art. 6145. Texas State Historical Survey Committee

State historical marker program; form and inscriptions on monuments; advice as to memorials and monuments

Sec. 9. The Committee shall give direction and coordination to the state historical marker program, and in order to assure a degree of uniformity and quality of historical markers, monuments, and medallions within the State of Texas, shall review, pass upon or reject the final form, dimensions, substance of and inscriptions or illustrations on any historical marker, monument, or medallion before its erection by any county, incorporated city, or the State Building Commission, within this state. The Committee shall continue to assist and advise the State Building Commission with regard to proper memorials and monuments to be erected, repaired, and removed to new locations, and selection of sites therefor, and the locating and marking of graves. As amended Acts 1963, 58th Leg., p. 521, ch. 195, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Certification as to worthiness of preservation of historic buildings, sites or landmarks

Sec. 9a. Pursuant to the purpose of Section 9 above, the Texas State Historical Survey Committee is hereby authorized upon request of the State Building Commission to certify the worthiness of preservation to the State Building Commission of any historic buildings, sites, or landmarks of state-wide historical significance associated with historic events or personalities, or prehistoric ruin, burial ground, archaeological or vertebrate paleontological site, or site including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historical feature within the limits of the State of Texas, to which a

majority of the Committee agrees. Added Acts 1963, 58th Leg., p. 521, ch. 195, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 12. It shall not be the purpose of this program to duplicate or replace existing historical heritage organizations and activities but it is the purpose to give leadership, coordination and service where it is needed and where it is desired. The Committee shall exercise no authority over any organization, agency or institution of the state, except as set out in Section 9 above. As amended Acts 1963, 58th Leg., p. 521, ch. 195, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Commissioners court, appropriations for erection of historical markers and monuments, see art. 2372r.

Building commission, erection of monuments and memorials, see art. 678m, § 15.

Destruction or removal of historical structure, marker or artifact, see Vernon's Ann.P.C. art. 147b-2.

Art. 6145.1. County Historical Survey Committee

Section 1. The county judge may, during the month of January of odd-numbered years, appoint a County Historical Survey Committee, to consist of at least seven (7) residents of the county who have exhibited interest in the history and traditions of the State of Texas, for a term of two (2) years. The county is hereby authorized to pay the necessary expenses of such committee. Such committees as are appointed shall institute and carry out a survey of the county to determine the existence of historical buildings, battlefields, private collections of historical memorabilia, or other historical features within the county, and shall thereafter continue to collect data on the same subject as it may become available. The data collected shall be made available to anyone interested therein, and especially to the Commissioners Court and to the Texas State Historical Survey Committee. This Committee shall make any recommendations concerning the acquisition of property, real or personal, which are of historical significance, when requested to do so by the Commissioners Court. Acts 1963, 58th Leg., p. 433, ch. 152.

Emergency. Effective May 14, 1963.

County historical markers, monuments and medallions, appropriations by commissioners courts, see art. 2373r.

Appropriations for historical monuments, see Const. art. 16, § 39.

Building commission, erection and maintenance of monuments and memorials, see art. 678m, § 15.

Destruction or removal of historical structure, marker or artifact, see Vernon's Ann.P.C. art. 147b-2.

Cities, acquisition of lands and buildings for parks, playgrounds, historical museums and sites, see art. 6081e.

Art. 6145—1. Governor James Stephen Hogg Memorial Shrine

Commissioners court, appropriations for erection of historical markers and monuments, see art. 2372r.

Art. 6145—2. Battleship "Texas" as a permanent memorial; Commission of Control; maintenance and operation

Change of name of San Jacinto State Park to San Jacinto Battleground, see art. 6071a.

Commissioners court, appropriations for erection of historical markers and monuments, see art. 2372r.

Art. 6145—4. Old Galveston Quarter**Old Galveston Quarter Commission; members; terms; chairman and officers**

Sec. 3. (a) The powers of the Old Galveston Quarter shall be exercised by the Old Galveston Quarter Commission consisting of five members all of whom shall be property owners within the Quarter. The Governor shall appoint the five members from a list of ten property owners nominated by the membership of the Old Galveston Quarter Property Owners Association at the annual meeting or a special meeting called for this purpose, provided that all resident property owners within the Quarters are entitled to vote upon these nominations at the meeting. The initial terms of the first five members of the Commission shall be as follows: the Governor shall appoint two for a three year term; two for a two year term; and one for a one year term. Upon the expiration of each of these terms, subsequent appointments shall be filled in a similar manner for a term of three years.

(b) As the term of any such Commissioner, or of any subsequent Commissioner expires, his successor shall be appointed in like manner. Vacancies in the Commission shall be filled in the same manner for the unexpired term. Every Commissioner shall continue in office after the expiration of his term until his successor is duly appointed and has qualified.

(c) The Commission shall elect one of its members as chairman, one as vice-chairman and another as treasurer; and the signed authorization by two shall be necessary for operating expenditures. Members of the Commission shall serve without compensation. The records of the Commission shall set forth every determination made by the Commission and the vote of every member participating therein and the absence or failure to vote of every other member. As amended Acts 1963, 58th Leg., p. 1166, ch. 453, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Exterior architectural or advertising features; certificate of appropriateness

Sec. 6. (a) No person shall construct any exterior architectural or advertising feature in the Old Galveston Quarter, or reconstruct or alter any such feature now or hereafter in said Quarter, until such person shall have filed with the Secretary of the Commission an application for a certificate of appropriateness in such form and with such plans, specifications and other material as the Commission may from time to time prescribe and a certificate of appropriateness shall have been issued as hereinafter provided in this Section. As amended Acts 1963, 58th Leg., p. 1166, ch. 453, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Powers of the Commission

Sec. 10. The Commission may regulate the types and location of business as well as business hours within the Quarter where such regulation does not conflict with any state law or city ordinance and may sell or lease, for periods not to exceed twenty (20) years, real or personal property for use within the Quarter which it may acquire by purchase or gift; provided that the Commission shall have no power of eminent domain. As amended Acts 1963, 58th Leg., p. 1166, ch. 453, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Bonds

Sec. 11. The Commission shall have no authority to issue bonds. As amended Acts 1963, 58th Leg., p. 1166, ch. 453, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Election; petition; returns

Sec. 13. (a) The powers granted to the Old Galveston Quarter Commission under this Act shall not take effect until an election has been held within the boundaries of the proposed District, and its creation has been approved by the majority of those voting in an election.

(b) A petition shall first be presented to the Commissioners Court signed by a majority of the resident property owners within the Quarter.

(c) The Commissioners Court shall then order an election to be held within the boundaries of the Old Galveston Quarter at which election shall be submitted the following propositions and none other:

“FOR the Old Galveston Quarter.”

“AGAINST the Old Galveston Quarter.”

(d) A majority of those voting in the Special Election shall be necessary to carry the proposition. Only resident property owners may vote at such an election. All such elections shall be conducted in the manner provided by the General Election Laws, unless otherwise provided. The Commissioners Court shall name polling places within the Quarter and shall appoint the judges and other necessary election officers.

(e) Immediately after the election each presiding judge shall make returns of the result as provided for in General Elections for state and county officers, and return the ballot boxes to the County Clerk, who shall keep same in a safe place and deliver them together with all returns to the Commissioners Court at its next regular or special session to canvass the vote. If the court finds that the proposition carried, it shall so declare the result and enter the same in its minutes. As amended Acts 1963, 58th Leg., p. 1166, ch. 453, § 5.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 107—PAWNBROKERS AND LOAN BROKERS

3. TEXAS REGULATORY LOAN ACT [NEW]

Art.

6165b. Texas Regulatory Loan Act.

1. PAWNBROKERS

Art. 6146. [6155] [3636] [3494] Pawnbroker

Exemption of persons doing business as pawnbroker from provisions of the Texas Regulatory Loan Act, see art. 6165b, § 6.

Art. 6165a. Repealed. Acts 1963, 58th Leg., p. 550, ch. 205, § 30. Eff. 90 days after May 24, 1963, date of adjournment

See, now, the Texas Regulatory Loan Act, art. 6165b.

3. TEXAS REGULATORY LOAN ACT

Art. 6165b. Texas Regulatory Loan Act

Declaration of Legislative Intent

Section 1. The Legislature finds as facts and determines:

(a) The Legislature should, in obedience to Article XVI, Section 11, of the Constitution of Texas, as amended in 1960, classify loans and lenders, license and regulate lenders, define interest and fix a maximum rate of interest pertaining to licensees under this Act.

(b) Consumer loans make an essential and useful contribution to our society in that they provide the only means by which many individuals and families can secure credit to improve their standards of living and to meet unforeseen financial emergencies.

(c) There exists among citizens of this state a widespread demand for such loans, the scope and intensity of which has been increased progressively by many social and economic forces.

(d) Due to the lack of adequate regulation, many unethical and unscrupulous lenders are engaged in the making of loans of this type and are subjecting borrowers to abuses.

(e) These facts characterize and distinguish loans with cash advances of One Thousand Five Hundred Dollars (\$1,500) or less, and legislation to control this class of loans is necessary to protect the public welfare.

(f) It is the intent of the Legislature in enacting this statute to bring under public supervision those engaged in the business of making such loans, to eliminate practices that facilitate abuse of borrowers; to establish a system of regulation for the purpose of insuring honest and efficient loan service and of stimulating competition in such lending; to provide for interest that is fair, just and equitable, and to provide the administrative machinery necessary for effective enforcement.

Short Title

Sec. 2. This Act may be cited as the "Texas Regulatory Loan Act."

Definitions

Sec. 3. The following words and terms when used in this Act shall have the following meanings, unless the context clearly requires a different meaning. The meanings applied to the singular forms shall also apply to the plural.

(a) "Person" means an individual, copartnership, association, trust, corporation and any other legal entity.

(b) "License" means the authority to do business under this Act.

(c) "Licensee" means any person to whom one or more licenses have been issued.

(d) "Commissioner" means the Regulatory Loan Commissioner of the State of Texas.

(e) "Finance Commission" means the Finance Commission of Texas created by the Texas Banking Code of 1943.¹

(f) "Cash advance" means the amount of cash or its equivalent the borrower actually receives and shall also include that paid out at his direction or request, on his behalf or for his benefit.

(g) "Interest" shall be that compensation allowed by this Act, for the use or forbearance or detention of the cash advance. The maximum rate of interest permitted by this Act is that amount authorized in Section 17. Any gain or advantage arising from the sale or providing of insurance as authorized in Section 18 shall not be interest.

(h) "Amount of loan" means the cash advance plus the interest, authorized by Section 17.

(i) "Month" means that period of time from one date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date then the last day of such following calendar month and when computations are made for a fraction of a month a day shall be one-thirtieth (1/30) of a month.

¹ Article 342—101 et seq.

Office of Regulatory Loan Commissioner Created

Sec. 4. (a) There is hereby created the office of Regulatory Loan Commissioner of the State of Texas. The commissioner shall be appointed by the Finance Commission and shall serve at the pleasure of the Finance Commission. The commissioner shall be an employee of the Finance Commission, subject to its orders and directions. The commissioner is authorized to appoint and remove examiners and employees, and to prescribe the duties of each.

(b) The commissioner shall, from time to time, as directed by the Finance Commission, submit to the Finance Commission a full and complete report of the receipts and expenditures of this office, and the Finance Commission may, from time to time, examine the financial records of the Regulatory Loan Commissioner, or cause them to be examined. In addition, the office of Regulatory Loan Commissioner shall be audited from time to time by the state auditor in the same manner as state departments, and the actual costs of such audit shall be paid to the state

auditor from the funds of the Regulatory Loan Commissioner. The Finance Commission shall, as of December 31, 1963, and annually thereafter report to the Governor of the State of Texas the receipts and disbursements of the office of the Regulatory Loan Commissioner for each calendar year.

(c) The commissioner shall appoint a deputy commissioner, such examiners and assistant examiners as may be required to examine all licensees under this Act annually and such employees as may be necessary to maintain and operate the office of the Regulatory Loan Commissioner and to enforce the laws of this state relative to the licensees under this Act.

(d) The commissioner, the deputy commissioner, the examiners and assistant examiners shall, before entering upon the duties of office, take an oath of office and make a fidelity bond in the sum of Ten Thousand Dollars (\$10,000) payable to the Finance Commission and its successors in office, in individual, schedule or blanket form, executed by a surety appearing upon the list of approved sureties acceptable to the Finance Commission. The bond shall be in form approved by the Finance Commission.

(e) The commissioner shall supervise and shall regulate as provided in this Act all licensees and shall enforce the provisions of this Act in person through the deputy commissioner or any examiner or assistant examiner. The commissioner, the deputy commissioner, each examiner and assistant examiner and each employee under this Act shall not be personally liable for damages occasioned by his official act or omissions except when such acts or omissions are corrupt or malicious. The Attorney General shall defend any action brought against any of the above-mentioned officers or employees by reason of his official act or omission whether or not at the time of the institution of the act the defendant has terminated his services with the office of the Regulatory Loan Commissioner.

(f) The commissioner shall report his findings and recommendations relating to the administration and enforcement of the provisions of this Act to each Regular Session of the Legislature.

Scope

Sec. 5. (a) On and after ninety (90) days from the effective date of this Act, no person shall, without first obtaining a license from the commissioner engage in the business of making loans with cash advances of One Thousand Five Hundred Dollars (\$1,500) or less, and contract for, charge or receive, directly or indirectly, on or in connection with any such loan, any charges, whether for interest compensation, consideration or expense or other thing or otherwise, which in the aggregate are greater than such person would be permitted by law to charge if he were not a licensee under this Act. During such ninety (90) day period, any person who has applied for such license, or filed written notice of intention to apply for such license with the commissioner, and who has not been denied, shall be subject to all the provisions of this Act and may contract for, charge and receive interest as if he were a licensee.

(b) The provisions of Section 5(a) shall apply to any person who seeks to evade its application by any device, subterfuge or pretense whatsoever.

(c) Any person and the several members, officers, directors, agents and employees thereof, who shall wilfully violate or participate in the

violation of Section 5(a) shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine of not less than Five Hundred Dollars (\$500) and not more than One Thousand Dollars (\$1,000) or by confinement in the county jail for not more than six (6) months, or both. Any loan contract in the making or collection of which any act shall have been done which violates Section 5(a) shall be void and the lender shall have no right to collect, receive or retain any principal, interest or charges.

Exemptions

Sec. 6. (a) The provisions of this Act shall not apply to any of the following persons and the following transactions; nor shall any of such persons be eligible to receive a license under this Act.

(1) Any person doing business under the authority of and as permitted by the Texas Banking Code of 1943, as amended.

(2) Any person doing business under the authority of and as permitted by Articles 852 through 881, Revised Civil Statutes of Texas, 1925, and Chapter 61, Acts of the 41st Legislature, Second Called Session, 1929, as amended, relating to Building and Loan Associations.

(3) Any person doing business under the authority of and as permitted by Articles 2461 through 2484, Revised Civil Statutes of Texas, 1925, as amended, and Section 5 of House Bill No. 47, Acts of the 46th Legislature, Regular Session, 1939, and Chapter 173, Acts of the 51st Legislature, Regular Session, 1949, relating to Credit Unions.

(4) Any person doing business under the authority of and as permitted by Articles 1512 through 1519, Revised Civil Statutes of Texas, 1925, relating to Agricultural Finance Corporations.

(5) Any person doing business under the authority of and as permitted by Articles 2485 through 2499, Revised Civil Statutes of Texas, 1925, as amended, relating to Agricultural and Livestock Pools.

(6) Any person doing business under the authority of and as permitted by Articles 2500 through 2507, Revised Civil Statutes of Texas, 1925, as amended, relating to Mutual Loan Corporations.

(7) Any person doing business under the authority of and as permitted by Articles 2508 through 2513, Revised Civil Statutes of Texas, 1925, relating to Cooperative Credit Associations.

(8) Any person doing business under the authority of and as permitted by Articles 2514 through 2524, Revised Civil Statutes of Texas, 1925, relating to Farmers Cooperative Societies.

(9) Any person doing business under the authority of and as permitted by Articles 5578 through 5611, Revised Civil Statutes of Texas, 1925, relating to Markets and Warehouse Corporations.

(10) Any person doing business as an insurance company under the authority of and as permitted by the Insurance Code of Texas, as amended.

(11) Any person doing business under the authority of and as permitted by any law of the United States relating to National Banks, Federal Credit Unions or other Federal Lending Agencies or Institutions.

(12) Any person doing business as a pawnbroker under the authority of and as permitted by Articles 6146 through 6161, Revised Civil Statutes of Texas, 1925, when such person does not require the personal liability of the borrower in a loan transaction.

(13) Any person doing business under the authority of and as permitted by Article 1513, Revised Civil Statutes of Texas, 1925, and Chapter 388, Acts of the 55th Legislature, Regular Session, 1957, relating to Trust Companies.

(14) Any person doing business under the authority of and as permitted by Subdivision 49, Article 1302, Revised Civil Statutes of Texas, 1925, as amended, or Section 1, Chapter 275, Acts 40th Legislature, Regular Session, 1927, as amended, who is regulated by the Banking Commissioner of Texas under the provisions of Chapter 165, Acts 42nd Legislature, Regular Session, 1931, as amended, and whose loan business is confined solely and entirely to loans to employees of the State of Texas and those persons holding contracts with the State of Texas.

(15) Any person acting as Trustee of a Trust, if the Trust (1) is for an employees savings plan, and (2) provides that loans may be made to participants in the Trust.

(b) The provisions of this Act shall not apply to any bona fide cash or credit sale transaction or any contract or obligation arising from or acquired as a result thereof.

Application for License: Fees; Appointment

Sec. 7. (a) Application for a license shall be under oath, shall give the approximate location from which the business is to be conducted, and shall contain such relevant information as the commissioner may require including identification of the principal parties in interest, to provide the basis for the findings necessary under Section 8. When making application, for one or more licenses, the applicant shall pay Two Hundred Dollars (\$200) to the commissioner as an investigation fee and One Hundred Dollars (\$100) for each license as the annual fee provided in Section 9(b) of this Act for the current calendar year, provided if a license is granted after June 30th in any year such fee shall be Fifty Dollars (\$50) for that year.

(b) Every licensee shall maintain on file with the commissioner a written appointment of a resident of this state as his agent for service of all judicial or other process or legal notice, unless the licensee has appointed an agent under another statute of this state. In case of non-compliance with Section 7(b), such service may be made on the commissioner.

(c) Every applicant shall, also, at the time of filing any such application, file with the commissioner a bond satisfactory to him and in an amount not less than Five Thousand Dollars (\$5,000) for the first license and One Thousand Dollars (\$1,000) for each additional license with a surety company qualified to do business in this state as surety, whose total liability in the aggregate shall not exceed the amount of such bond so fixed. The said bond shall run to the state for the use of the state and of any person or persons who may have cause of action against the obligor of said bond under the provisions of this Act. Such bond shall be conditioned that said obligor will faithfully conform to and abide by the provisions of this Act and of all rules and regulations lawfully made by the commissioner hereunder, and will pay to the state and to any such person or persons any and all amounts of money that may become due or owing to the state or to such person or persons from said obligor under and by virtue of the provisions of this Act during the calendar year for which said bond is given.

(d) No person who is not a citizen of the State of Texas shall be eligible to receive a license under this Act. No license shall be issued to a corporation unless the same be incorporated under the laws of this state, and at least fifty-one per cent (51%) of the stock of the corporation is owned at all times by citizens of the State of Texas and who possess the qualifications required of other applicants for license; provided, however, the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations which are doing business in this state under charter or license prior to January 8, 1963, but any such corporation which does not meet the requirements of such restrictions shall not be issued a license for any place of business other than those being operated by it on January 8, 1963. Partnerships, firms, and associations applying for licenses shall be composed wholly of citizens possessing the qualifications above enumerated. Any person holding a license under this Act who shall violate any provision hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its license and if a corporation, its charter shall be subject to forfeiture, and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file suit for such forfeiture of charter and cancellation of the license in a District Court in Travis County, Texas.

Issuance or Denial of License

Sec. 8. (a) On filing of such application, bond, and payment of the required fees, the commissioner shall investigate the facts and if he shall find the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief the business will be operated lawfully and fairly, within the purposes of this Act, and the applicant has available for the operation of such business net assets of at least Fifteen Thousand Dollars (\$15,000), he shall grant such application and issue to the applicant a license which shall be his license and authority to make loans under the provisions of this Act.

(b) If the commissioner shall not so find, he shall notify the applicant, who shall, on request within thirty (30) days, be entitled to a hearing on such application within sixty (60) days after the date of said request. The investigation fee shall be retained by the commissioner, but the annual fee shall be returned to the applicant in the event of denial.

(c) The commissioner shall grant or deny each application for a license within thirty (30) days from its filing with the required fees, or, from the hearing thereon, if any, unless the period is extended by written agreement between the applicant and the commissioner.

License; Annual Fee; Minimum Assets

Sec. 9. (a) Each license shall state the address of the office from which the business is to be conducted and the name of the licensee. The license shall be displayed at the place of business named in the license. The license shall not be transferable or assignable except upon approval by the commissioner.

(b) Each license shall remain in full force and effect until relinquished, suspended, revoked, or has expired. Every licensee shall, on or before each December 10th, pay the commissioner One Hundred Dollars (\$100) for each license held by him, as the annual fee for the succeeding calendar year. If the annual fee remains unpaid fifteen (15) days after written notice of delinquency has been given to the licensee by the commissioner,

the license shall thereupon expire but not before December 31st of any year for which an annual fee has been paid.

(c) Every licensee shall maintain net assets of at least Fifteen Thousand Dollars (\$15,000), either used or readily available for use, in the conduct of the business of each licensed office.

Offices; Removal

Sec. 10. (a) A separate license shall be required for each office operated under this Act. The commissioner may issue more than one license to any one person upon compliance with this Act as to each license. Nothing contained herein, however, shall be construed to require a license for any place of business devoted to accounting or other record keeping and where loans under this Act are not made.

(b) When a licensee wishes to move his office to another location he shall give thirty (30) days written notice to the commissioner who shall amend the license accordingly. In such event, the licensee shall also give fifteen (15) days written notice of his intention to remove his office to each of the borrowers having a loan outstanding at such office.

(c) The commissioner may issue more than one (1) license but not more than sixty (60) licenses to any one (1) person on compliance with this Act as to each license. And it shall be unlawful for any person, after the effective date of this Act, directly or indirectly, or through subsidiaries or holding companies, to hold or have an interest in more than sixty (60) licenses, the business thereof, or any interest in such license. Any person holding a license under this Act which shall violate any provision hereof shall be subject to forfeiture of his license, and if a corporation, its charter shall be subject to forfeiture, and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file suit for such forfeiture of charter and cancellation of the license in a District Court in Travis County, Texas.

Revocation; Suspension; Surrender; Reinstatement of Licenses

Sec. 11. (a) The commissioner may, after notice and hearing, suspend or revoke any license if he finds that:

(1) The licensee has failed to pay the annual license fee imposed by this Act or an examination fee, investigation fee or other fee or charge imposed by the commissioner under the authority of this Act; or that

(2) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of this Act; or that

(3) Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, clearly would have justified the commissioner in refusing to issue such license.

The hearing shall be held upon twenty (20) days notice in writing setting forth the time and place thereof and a concise statement of the facts alleged to sustain the suspension or revocation. The hearing shall be full, fair and public. Such suspension or revocation and its effective date shall be set forth in a written order accompanied by findings of fact and a copy thereof shall be forthwith delivered to the licensee. Such order, findings and the evidence considered by the commissioner shall be filed with the public records of the commission.

(b) Any licensee may surrender any license by delivering it to the commissioner with written notice of its surrender, but such surrender shall not affect his civil or criminal liability for acts committed prior thereto.

(c) No revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any borrower.

(d) The commissioner may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the commissioner in refusing originally to issue such license under this Act.

Examination of Licensees; Access to Records; Investigations; Injunctions

Sec. 12. (a) At least once each year and at such other times as the commissioner shall deem necessary, the commissioner, or his duly authorized representative shall make an examination of the place of business of each licensee and shall inquire into and examine the loans, transactions, books, accounts, papers, correspondence, and records of such licensee insofar as they pertain to the business regulated by this Act. In the course of such examination, the commissioner or his duly authorized representative shall have free access to the office, places of business, files, safes and vaults of such licensees, and shall have the right to make copies of such books, accounts, papers, correspondence and records. The commissioner or his duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the commissioner is authorized or required by this Act to consider, investigate, or secure information. Any licensee who shall fail or refuse to let the commissioner or his duly authorized representative examine or make copies of such books, or other relevant documents shall thereby be deemed in violation of this Act and such failure or refusal shall constitute grounds for the suspension or revocation of such license. The information obtained in the course of such examination shall be confidential. Each licensee shall pay to the commissioner the cost of the examination, but not to exceed Fifty Dollars (\$50) per day per examiner and the total cost of examinations assessed and charged a licensee in any one calendar year shall not exceed Two Hundred Fifty Dollars (\$250) for each licensed office.

(b) For the purpose of discovering violations of this Act or of securing information required hereunder, the commissioner or his duly authorized representatives may investigate the books, accounts, papers, correspondence and records of any licensee or other person who the commissioner has reasonable cause to believe is violating any provision of this Act whether or not such person shall claim to be within the authority or scope of this Act. For the purposes of this subsection any person who advertises for, solicits or holds himself out as willing to make loans with cash advances in the amount or the value of One Thousand Five Hundred Dollars (\$1,500) or less, shall be presumed to be engaged in the business described in Section 5 of this Act.

(c) In the course of any examination or investigation or hearing looking to the enforcement or administration of any provision of this Act, the commissioner may require by subpoena or summons, issued by the commissioner addressed to any peace officer within this state, the attendance and testimony of witnesses, and the production of books, accounts, papers, correspondence, or records (excepting such as are absolutely necessary

for the continued course of business) which such books, accounts, papers, correspondence, or records the commissioner shall have the right to examine, or cause to be examined, at the office, or place of business, and to require copies of such portions thereof as may be deemed necessary touching the matter in question, which copies shall be verified by affidavit of such concern or an officer of such concern, and shall, when certified by the commissioner, be admissible in evidence in any investigation or hearing under this Act, or in an appeal to the District Court as provided by this Act and for this purpose the commissioner may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence. In case of disobedience of any subpoena, or of the contumacy of any witness appearing before the commissioner, the commissioner may invoke the aid of the district court within whose jurisdiction any witness may be found, and such court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence, or produce books, accounts, correspondence, records and other documents touching the matter in question. Upon the filing of such application to enforce such subpoena, which application shall be treated in the same manner as a motion in a civil suit pending in said court, the court shall forthwith set such application down for hearing and shall cause a notice of the filing of such application and of such hearing to be served upon the party to whom such subpoena is directed. Such notice may be served by any peace officer in the State of Texas. Such application shall take precedence over all other matters of a different nature pending before such court. Any failure to obey such order of the court may be punished by such court as contempt thereof.

(d) In the course of any examination, investigation or hearing described in subsection (c) of this section, the commissioner may appoint a hearing officer to conduct such examination, investigation or hearing, and such hearing officer shall be vested for the purpose of such examination, investigation or hearing with the power and authority as the commissioner would have if he were personally conducting such examination, investigation or hearing, provided that such hearing officer shall not be authorized to make any order upon the subject matter of such examination, investigation or hearing; and provided further, that the record of any examination, investigation or hearing conducted before the hearing officer may be considered by the commissioner in the same manner and to the same extent as evidence that is adduced before him personally in any examination, investigation or hearing.

(e) The fee for serving the subpoena shall be the same as that paid a sheriff or constable for similar services. Each witness required to attend before the commissioner shall receive for each days attendance, the sum of Two Dollars (\$2) and shall receive in addition the sum of Ten Cents (10¢) for each mile traveled by such witness by the usual route going to or returning from the place where his presence is required, provided that such fees shall not become payable until the witness has actually appeared at such hearing. All disbursements made in the payment of such fees shall be included in and paid in the same manner as is provided for other expenses incident to the administration and enforcement of this Act.

(f) The fees, expenses and costs incurred at or in connection with any hearing may be imposed by the commissioner upon any party in interest to the record or may be divided between any and all parties in interest to the record in such proportion as the commissioner may determine.

(g) Whenever the commissioner has reasonable cause to believe that any licensee or any other person is violating any provision of this Act, he may in addition to all actions provided for in this Act and without preju-

dice thereto enter an order requiring such person to desist or to refrain from such violation; and an action may be brought in any District Court of this state having jurisdiction and venue, on the relation of the Attorney General at the request of the commissioner, to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding such preliminary or final injunction as may be deemed proper. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which such action is brought shall have power and jurisdiction to impound, and to appoint a receiver for the property and business of the defendant, including books, papers, documents and records pertaining thereto or so much thereof as the court may deem reasonably necessary to prevent violations of this Act through or by means of the use of said property and business. Such receiver, when appointed and qualified, shall have such powers and duties as to custody, collection administration, winding up and liquidation of such property and business as shall from time to time be conferred upon him by the court. This provision shall be cumulative of Articles 2293 through 2319, inclusive, Revised Civil Statutes of Texas, 1925, as amended.

Records; Annual Reports

Sec. 13. (a) Each licensee shall keep in this state such books and records relating to loans made under this Act as are necessary to enable the commissioner to determine whether the licensee is complying with this Act. Such books and records shall be consistent with accepted accounting practices.

Each licensee shall preserve such books and records in this state for at least four (4) years after making the final entry of any loan recorded therein. Each licensee's system of records shall be accepted if it discloses such information as may be reasonably required under Section 13(a) of this Act. All obligations signed by borrowers shall be kept at an office in this state designated by the licensee, except when hypothecated under an agreement by which the creditor gives the commissioner access thereto.

(b) Each licensee shall annually on or before the first day of April file a report with the commissioner giving such relevant information as the commissioner may reasonably require concerning the business and operations during the preceding calendar year for each licensed place of business conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the commissioner, who shall make and publish annually a consolidated analysis and recapitulation of such reports, but the individual reports shall be held confidential.

Regulations; Copies; Public Record

Sec. 14. (a) The commissioner may make regulations necessary for the enforcement of this Act and consistent with all of its provisions. Each such regulation shall include reference only to the section or subsection to which it applies. Before making a regulation, the commissioner shall give every licensee at least twenty (20) days written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any licensee may be heard and may introduce evidence, data or arguments or place the same on file. After consideration of all relevant matter presented, the commissioner shall promulgate every regulation in written form stating its effective date and the date of promulgation. Each regulation shall be entered in a

permanent book which shall be a public record and be kept in the commissioner's office. A copy of every regulation shall be mailed to each licensee and no regulation shall become effective until the expiration of at least twenty (20) days after such mailing.

(b) On application of any person and payment of the costs therefor, the commissioner shall furnish, under his seal and signed by him or his deputy, a certificate of good standing, a certified copy of any license, regulation or order.

(c) Any transcript of any hearing held by the commissioner or findings by the commissioner under this Act shall be a public record and open to inspection at all reasonable times.

Advertising

Sec. 15. No licensee shall advertise or cause or permit to be advertised, in any manner whatsoever, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for loans. If rates are stated in advertising, the commissioner may require them to be stated fully and clearly.

No licensee under this Act shall use any advertising stating that said licensee is licensed by, or regulated by, the State of Texas, or any agency thereof; nor shall such licensee use words of similar import for advertising purposes.

More Than One Business in Single Office

Sec. 16. (a) A licensee may conduct the business of making loans under this Act, within any offices, suite, room or place of business in which any other business is solicited or engaged in, or in association or conjunction with any other business, unless the commissioner shall find, after a hearing, that the conduct by the licensee of such other business in the particular licensed office has concealed evasions of this Act and shall order such licensee, in writing, to desist from such conduct in such office.

(b) No licensee shall conduct the business of making loans provided for by this Act under any name, or at any place of business within this state, other than that stated in the license.

(c) Nothing in this Act shall be construed to limit the loans of any licensee to residents of the community in which the licensed office is situated or to prohibit the licensee from making loans by mail.

Maximum Rates of Interest

Sec. 17. (a) Every licensee may contract for and receive on any loan made under this Act repayable in consecutive monthly installments, substantially equal in amount, an add-on interest charge computed on the cash advance for the full term of the loan contract in accordance with the following schedule:

(1) Nineteen Dollars (\$19) per One Hundred Dollars (\$100) per annum on that part of the cash advance not in excess of One Hundred Dollars (\$100), Sixteen Dollars (\$16) per One Hundred Dollars (\$100) per annum on that part of the cash advance in excess of One Hundred Dollars (\$100) but not in excess of Two Hundred Dollars (\$200), Thirteen Dollars (\$13) per One Hundred Dollars (\$100) per annum on that part of the cash advance in excess of Two Hundred Dollars (\$200) but not in excess of Three Hundred Dollars (\$300), Eleven Dollars (\$11) per One Hundred Dollars (\$100) per annum on that part of the cash advance in excess of Three

Hundred Dollars (\$300) but not in excess of Five Hundred Dollars (\$500), Nine Dollars (\$9) per One Hundred Dollars (\$100) per annum on that part of the cash advance in excess of Five Hundred Dollars (\$500) but not in excess of One Thousand Dollars (\$1,000) and Seven Dollars (\$7) per One Hundred Dollars (\$100) per annum on that part of the cash advance in excess of One Thousand Dollars (\$1,000) but not in excess of Fifteen Hundred Dollars (\$1500).

(2) Interest authorized in Section 17(a) (1) shall be computed at the time the loan is made for the full term of the loan contract notwithstanding the requirement of the loan contract for payment in substantially equal and consecutive monthly installments and shall be computed on the basis of a full month for any fractional period in excess of fifteen (15) days. Interest authorized by Section 17(a) (1) shall be added to the cash advance and said sum shall be the amount of the loan.

(3) Notwithstanding the requirement of consecutive monthly installments, substantially equal in amount, loans may be made under loan contracts which require repayment in irregular or unequal installment payments and the interest thereon may be in an amount computed in advance on a basis which provides the same interest yield in relation to the balances of the cash advance schedules to be outstanding from time to time under the loan contract, as is permitted under Section 17(a) (1), having due regard for the schedule of payments.

(4) Notwithstanding the requirement of consecutive monthly installments, substantially equal in amount, a licensee and borrower may agree the first installment date may exceed one month by not more than fifteen (15) days and the amount of such installment may be increased by one-thirtieth ($1/30$) of the amount of interest which would be applicable to a first installment period of one month for each extra day, but such interest shall be excluded in computing the additional interest for deferment and shall not be subject to refund.

(5) Additional interest for default, if contracted for, may equal but shall not exceed the Three Cents (3¢) for each One Dollar (\$1) of any scheduled installment when any portion of such installment continues unpaid for five (5) days or more following the date such payment is due, including Sundays and holidays. Interest for such default shall not be collected more than once on the same installment. If the payment date of each wholly unpaid installment, on which no interest for default has been collected is deferred as of an installment date for one (1) or more full months and the maturity of the contract is extended for a corresponding period of time, the licensee may charge and collect additional interest for such deferment. The interest for such deferment may be equal to the difference between the refund which would be required for prepayment in full as of the date of deferment and the refund which would be required for prepayment in full as one (1) month prior to such date multiplied by the number of months in the deferment defined below. The portion of the interest contracted for under Section 17(a) (1) applicable to each deferred balance and installment period following a deferment period shall remain the same as that applicable to such balance and period under the original contract of loan. If a loan is prepaid in full during the deferment period defined below, the borrower shall receive, in addition to the refund required under Section 17(a) (6), a refund of that portion of the interest for deferment applicable to any unexpired full month or months of such period. The deferment period is that period beginning with the day following the due date of the scheduled installment preceding the first installment being deferred, and during which no payment is made or required

by reason of such deferment. The interest or default or deferment may be collected at the time of default or deferment, or at any time thereafter.

(6) When any loan contract is prepaid in full by cash, a new loan, renewal, or otherwise, after the first installment due date but before the final installment due date, the licensee shall refund or credit the borrower with an amount which shall be as great a proportion of the total interest contracted for under Section 17(a) (1) as the sum of the periodic balances scheduled to follow the installment date after the date of prepayment in full bears to the sum of all the periodic time balances under the schedule of payments set out in the loan contract. If such prepayment in full occurs before the first installment due date the licensee shall retain for each elapsed day from date the loan was made, one-thirtieth (1/30) of the portion of the interest which could be retained if the first installment period were one (1) month and the loan were prepaid in full on the first installment period due date and the interest contracted for under Section 17(a) (1) in excess of such amount shall be refunded or credited to the borrower. No refund shall be required for partial prepayments and no refund of less than One Dollar (\$1) need be made.

(7) No licensee shall induce or permit any person, or husband and wife, to be obligated, directly or indirectly, under more than one (1) loan contract under this Act at the same time for the purpose, or with the effect, of obtaining a higher authorized charge than would otherwise be permitted by this Act; but such limitation shall not apply to the acquisition by purchase of bona fide obligations of the borrower incurred for goods or services, and provided further, if a licensee purchases all or substantially all the loan contracts of another licensee hereunder and has at the time of purchase loan contracts with one (1) or more of the borrowers whose loans are purchases, the purchaser shall be entitled to collect principal and authorized charges thereon according to the terms of each loan contract.

(8) In addition to the authorized charges provided in this Act no further or other charge or amount whatsoever shall be directly, or indirectly, charged, contracted for, or received. This includes (but is not limited by) all charges such as fees, compensation, bonuses, commissions, brokerage, discounts, expenses and every other charge of any nature whatsoever, whether of the types listed herein or not. Without limitation of the foregoing, such charges may be any form of costs or compensation whether contracted for or not, received by the licensee, or any other person, in connection with (1) the investigating, arranging, negotiation, procuring, guaranteeing, making, servicing, collecting or enforcing of a loan; or (2) for the forbearance of money, credit, goods or things in action; or (3) for any other service or services performed or offered. However, the prohibition set out herein shall not apply to amounts actually incurred by a licensee as court costs; attorney fees assessed by a court; lawful fees for filing, record, or releasing to any public office any instrument securing a loan; the reasonable cost actually expended for repossessing, storing, or selling any security; or fees for noting a lien on or transferring a certificate of title to any motor vehicle offered as security for a loan made under this Act, or premiums or identifiable charge received in connection with the sale of insurance authorized under Section 18 of this Act.

(9) If any amount in excess of the authorized charges permitted by this Act is charged, contracted for, or received, except as the result of an accidental and bona fide error, the contract of loan shall be void as against public policy, and the licensee shall have no right to collect or receive any

principal authorized charges or recompense whatsoever, and the licensee and the several members, officers, directors, agents and employees thereof who shall have violated or participated in such violation shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than One Thousand Dollars (\$1,000) and not less than One Hundred Dollars (\$100) or by confinement in the county jail for not more than six (6) months, or by both such fine and confinement.

(10) If any amount in excess of the authorized charges permitted by this Act is charged, contracted for, or received by the licensee and the several members, officers, directors, agents, and employees thereof who shall have violated or participated in such violation shall be jointly and severally liable for reasonable attorneys fees incurred by the borrower in enforcing any of the provisions of this Act.

(b) On loans of One Hundred Dollars (\$100) or less, a licensee may charge, in lieu of charges specified in Section 17(a) (1) of this Act, the following amounts:

(1) On any amount up to and including Nineteen Dollars (\$19) a charge may be added at the ratio of One Dollar (\$1) for each Five Dollars (\$5) of cash or credit advanced to the borrower and such advance of cash or credit shall be for a period of one (1) month only.

(2) On any cash advance in an amount in excess of Nineteen Dollars (\$19) up to and including the amount of Thirty-five Dollars (\$35) there shall be allowed an acquisition charge for making the advance not in excess of one-tenth (1/10th) of the amount of the cash advance. In addition thereto, an installment account handling charge shall be allowed not to exceed Three Dollars (\$3) per month and such advance of cash or credit shall be for a period of either one (1) or two (2) months.

(3) On any cash advance of an amount in excess of Thirty-five Dollars (\$35) but not more than Seventy Dollars (\$70) there shall be allowed an acquisition charge for making the advance not in excess of one-tenth (1/10th) of the amount of the cash advance. In addition thereto, an installment account handling charge shall be allowed not to exceed Three Dollars Fifty Cents (\$3.50) per month and such advance of cash or credit shall be for a period of not less than one (1) month nor more than four (4) months.

(4) On any cash advance of an amount in excess of Seventy Dollars (\$70) but not in excess of One Hundred Dollars (\$100) there shall be allowed an acquisition charge for making the advance not in excess of one-tenth (1/10th) of the amount of the cash advance. In addition thereto, an installment account handling charge shall be allowed not to exceed Four Dollars (\$4) per month, and such contract of loan shall not contain a maturity date of less than one (1) month nor more than six (6) months.

(5) On such loans under this subsection, no insurance premium charges or any other charges of any nature whatsoever shall be permitted.

(6) The acquisition charge authorized herein shall be deemed to be earned at the time a loan is made and shall not be subject to refund. On the prepayment of any loan under this subsection the installment account handling charge shall be subject to the provisions of subsection (a) herein as it relates to refunds. Provisions of subsection (a) herein relating to default charges on loans and the extension of loans shall apply to loans made under this subsection.

Insurance

Sec. 18. (a) A licensee may require, as additional security for any loan in excess of One Hundred Dollars (\$100), credit life insurance and credit health and accident insurance on a borrower under a group or individual policy subject to the following:

(1) The premium or identifiable charge collected from the borrower for such insurance shall not exceed an amount equal to the maximum premium rates fixed by the State Board of Insurance under the article of the Insurance Code of Texas which defines credit life insurance and credit health and accident insurance and provides the State Board of Insurance shall make and file the schedule of reasonable and adequate maximum premium rates which may be charged by insurers on such insurance; nor in any event, shall the amount charged to the borrower by the licensee for such insurance exceed the amount of the premium paid to the insurer by the licensee for such insurance, as computed at the time the charge to the borrower is determined;

(2) The terms, provisions, coverage and form of any such insurance policies shall satisfy and be in accordance with the particular requirements of the respective applicable statutes;

(3) The maximum premium rates fixed by the State Board of Insurance and the other requirements of such article shall apply to insurance required in connection with loans exceeding One Thousand Dollars (\$1,000) with the same force it applies to insurance required in connection with loans of One Thousand Dollars (\$1,000) and less;

(4) If such article of the Insurance Code is amended or repealed or a similar statute is enacted under which the State Board of Insurance is required to or may fix or approve maximum premium rates for credit life insurance and credit health and accident insurance, the premium or identifiable charge collected from the borrower for such insurance shall not exceed the maximum premium rate so fixed or approved; not in any event, shall the amount charged to the borrower by the licensee for such insurance exceed the amount of premium paid to the insurer by the licensee for such insurance as computed at the time the charges to the borrower are determined;

(5) Such insurance shall be written and sold in accordance with the provisions of the Insurance Code of Texas which apply to group policies or the provisions of the Insurance Code of Texas which apply to individual policies; provided, however, that the maximum premium rates charged a borrower by a licensee in connection with loans made under this Act for credit insurance on which such rates and/or compensation by commissions are not limited by law or fixed by the State Board of Insurance shall never exceed the maximum premium charges and/or commissions fixed by the State Board of Insurance for the sale of individual credit insurance policies with the same coverage;

(6) Any such insurance required under Section 18 shall be written for a time not in excess of one (1) month beyond the term of the loan contract. The initial amount of credit life insurance whether written on a group or individual policy shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, which ever is greater. The total amount of indemnity payable by credit accident and health insurance whether written on a group or individual policy

in the event of disability, as defined in the policy, shall not exceed the total amount repayable under the contract of indebtedness; and the amount of each periodic indemnity payment shall not exceed the scheduled periodic installment payment on the indebtedness; and

(7) Only one (1) policy of life insurance and one (1) policy of health and accident insurance may be in force with respect to any one (1) loan contract at one (1) time.

(b) A licensee may, in addition, require a borrower, on loans with a cash advance in excess of Three Hundred Dollars (\$300), to insure tangible personal property, when offered as security for a loan, against any substantial risk or loss, damage or destruction for an amount not to exceed the actual value of such property, and for a term and on conditions which are reasonable and appropriate considering the nature of the property and the maturity and other circumstances of the loan contract, in accordance with provisions of this subsection. Insurance on tangible personal property other than motor vehicles and trailers, which secures a loan as authorized by this subsection, shall include those coverages promulgated by the State Board of Insurance for fire and extended coverage on such property, and the total aggregate premiums for such insurance shall not exceed the maximum premiums promulgated by the State Board of Insurance for such fire and extended coverage insurance on such property. Insurance on motor vehicles and trailers securing a loan, as authorized by this subsection, shall be written only for the standard coverages promulgated by the State Board of Insurance for such motor vehicles and trailers and at premiums which do not exceed the maximum premiums promulgated by the State Board of Insurance for such standard coverages on such motor vehicles and trailers; provided, however, that as to coverage and insurers specifically so authorized in advance by the commissioner, such insurance may be written at filed rates in excess of such rates promulgated by the State Board of Insurance only where the licensee, its officers, agents or employees, receive no benefit or compensation whatsoever, either directly or indirectly from such insurance, other than in payment of losses claimed to the property which was security for the loan.

(c) When insurance is written under this section, the licensee shall deliver, or cause to be delivered, to the borrower within thirty (30) days from the date of the loan contract, a certificate or other memorandum showing the coverages and the cost of such insurance, if any, to the borrower, the name of the insuring company and the policy number.

(d) In accepting insurance provided by this section as security for a loan, the licensee, its officers, agents, or employees may deduct the premiums or identifiable charges for such insurance from the proceeds of the loan, which premiums or identifiable charges shall not exceed those authorized by this section, and pay such premiums to the insurance company writing such insurance. Any gain, or advantage to the licensee, or any employee, officer, director, agent, general agent, affiliate or associate from such insurance or its provision or sale shall not be considered as additional interest or further charge in connection with any loan made under this Act except as specifically provided herein. Arranging for, and collecting an identifiable charge shall not be deemed a sale of insurance.

(e) No insurance shall be written under this section by a company which is not authorized to conduct such business in this state. The licensee shall not by any method, directly or indirectly, require the purchase of insurance from an agent or broker designated by the licensee, nor shall the licensee decline existing coverages or substantially similar benefits that

comply with the provisions of this section. In the event of any violation of this section by a licensee, or should any additional charge be made for insurance other than that authorized in this section, all charges made for insurance shall be deemed as interest, and this provision is supplemental to and not exclusive of all other remedies and penalties hereunder.

Licensee's Duty to Borrower

Sec. 19. (a) When a loan is made, the licensee shall deliver to the borrower, or, if more than one, to one of them, a copy of the note and all other documents signed by the borrower and a statement in writing in the English language showing the following information:

- (1) The name and address of the borrower and of the licensee;
- (2) The date and the amount of the cash advance, the maturity date, and the agreed schedule of payments or a description of such payments;
- (3) The nature of the security, if any;
- (4) The charges contracted for as authorized by this Act;
- (5) The charges for default and deferment authorized by this Act;
- (6) The type of insurance, if any, provided in connection with the loan, and the premiums for such insurance; and
- (7) A statement showing the total amount, in dollars and cents, of charges contracted for at the time the loan is made, or the percentage that the total charges bear to the total amount of the loan, expressed as the nominal rate on the average outstanding unpaid balance on the principal amount of the loan.

If the note or loan contract shows the information required above, a copy of such note or loan contract may be delivered rather than a separate statement.

(b) The licensee shall give a receipt to the person making a payment on any loan.

(c) At any time during regular business hours, the licensee shall permit any loan to be prepaid in full, or, if less than a prepayment in full, in an amount equal to one (1) or more full installments.

(d) When a loan is repaid in full, the licensee shall cancel and return to the borrower, within a reasonable time, any note, assignment, mortgage, deed of trust, or other instrument securing such loan which no longer secures any indebtedness of the borrower to the licensee.

Prohibited Practices

Sec. 20. (a) No licensee shall take a lien upon real estate as security for any loan made under this Act, except such lien as is created by law upon the recording of an abstract judgment.

(b) No licensee shall take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for a borrower in a judicial proceeding.

(c) No licensee shall take any promise to pay or loan obligation that does not disclose the amount of the cash advance, the time for which it is made, the schedule of payments, the maturity date, the amount of authorized charges and the types of insurance, if any, provided in connection with the loan, and the premiums for such insurance.

(d) No licensee shall take any instrument in which blanks are left to be filled in after the loan is made.

(e) No licensee shall, in an attempt to collect an unpaid amount of loan, engage in practices which cause physical injury to any person who owes said licensee said amount of loan, and such person who so owes, when such attempts are made, shall have a cause of action against any such licensee individually and severally to recover for such physical injury and this cause of action shall be cumulative of all other causes of action for such physical injury for such practices.

(f) No licensee shall grant a loan in one (1) office to any borrower or to the spouse of any such borrower when such borrower or spouse already has a loan in another office operated by the same entity or, by an affiliate, parent, subsidiary or under the same ownership, management or control, whether partial or complete. If such loans are granted, in violation of this provision, the rates shall be adjusted to rates applicable under this Act to a single loan of equivalent amount.

Limitation of Loan Period

Sec. 21. No licensee shall enter any contract of loan under this Act, under which the borrower agrees to make any scheduled payment of principal more than thirty-seven (37) calendar months from the date of making such contract.

Wage Assignments Prohibited

Sec. 22. Assignments of wages shall be prohibited for the purposes of securing loans made under this Act.

Hearings and Review

Sec. 23. (a) At all hearings before the commissioner under the provisions of this Act, parties in interest shall have the right to appear in person and by counsel, and to present oral and written evidence. If requested by a party in interest, a record shall be made of all evidence offered by such party and all other evidence considered by the commissioner.

(b) Any party in interest aggrieved by any order, ruling or decision of the commissioner may, within thirty (30) days after the date of entry, file in the District Court of Travis County, Texas, a petition against the commissioner officially as defendant, alleging therein in brief detail the order, ruling or decision complained of and praying for a reversal or modification thereof. The commissioner shall within twenty (20) days after the service upon him of such petition, certify to said District Court the record of the proceedings to which the petition refers, or such portion thereof as may be required by the petitioner. The cost of preparing and certifying such record shall be paid to the commissioner by the petitioner and taxed as a part of the costs of the case. Upon the filing of an answer by the commissioner, the case before the District Clerk shall be at issue, without further pleadings, and upon application of either party shall be advanced and heard without further delay. The order of the commissioner shall be sustained unless the hearing was conducted in a manner contrary to the rudiments of a fair hearing; or the order was based upon an error of law which affected petitioner's substantial rights; or was arbitrary, capricious or unreasonable; or the findings of fact were not reasonably supported by substantial evidence in the record, considered as a whole, adduced before the commissioner. Provided, however, that any appeal to the District Court of Travis County, Texas, of an order, ruling or decision of the commissioner, refusing to grant a license or licenses to an applicant or revoking the license or licenses of a licensee, such appeal shall be upon trial de

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

novo as that term is used in appealing from justice of the peace court to county courts.

(c) Upon a showing of good cause therefor by a party in interest, the commissioner or the court may enter an order staying, pending appeal, the effect of an order of the commissioner from which the party in interest desires to appeal.

Pre-existing Contracts

Sec. 24. No modification, amendment, or repeal of this Act or any part thereof shall impair or affect the obligation of any pre-existing lawful contract.

[Sec. 25. Amended article 4646b.]

[Sec. 26. Amended article 5069.]

[Sec. 27. Amended article 5071.]

[Sec. 28. Amended article 5073.]

Certain Statutes Inapplicable

Sec. 29. Chapter 144, Acts of the 48th Legislature, Regular Session, 1943, compiled as Article 4646b, Vernon's Annotated Civil Statutes of Texas, and Articles 5069, 5071 and 5073, Revised Civil Statutes of Texas, 1925, where inconsistent with this Act shall not apply to licensees under this Act, nor shall the provisions of Chapter 165, Acts of the 42nd Legislature, Regular Session, 1931, as amended, compiled as Article 1524a, Vernon's Annotated Civil Statutes of Texas, apply to such licensee. Acts 1963, 58th Leg., p. 550, ch. 205.

Statutes Repealed

Sec. 30. Chapter 472, Acts of the 52nd Legislature, Regular Session, 1951, compiled as Article 1524a—1, Vernon's Annotated Civil Statutes of Texas, Chapter 17, Acts of the 40th Legislature, First Called Session, 1927, as last amended by Chapter 195, Acts of the 49th Legislature, Regular Session, 1945, compiled as Article 6165a, Vernon's Annotated Civil Statutes of Texas and Article 1129a, Vernon's Annotated Penal Code of Texas); and subsections (5) and (6) of Article 19.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, are hereby repealed. All other laws or parts of laws inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency, except as otherwise provided in this Act, and except that nothing herein contained in this Act shall affect those laws specified and exempted in Section 6 herein. Provided further, that the amendment or repeal of any law of this state by this Act shall not affect any right accrued or established, or any liability or penalty incurred under the provisions of any of such other laws prior to the amendment or repeal thereof. Acts 1963, 58th Leg., p. 550, ch. 205.

Effective 90 days after May 24, 1963, date of adjournment.

Saved From Repeal

Acts 1963, 58th Leg., p. 981, ch. 405, which amended V.A.T.S. Insurance Code, art. 3.53, relating to credit life insurance and credit accident and health insurance, provided in section 2 that the provisions of the act should be cumulative of, supplemental and in addition to the provisions of the Texas Regulatory Loan Act and should not be construed to repeal, amend or modify the Texas Regulatory Loan Act, but should be construed to be consistent therewith.

Action on usurious rate of interest, see art. 5073.

Banks, charging or collecting loan fees, see art. 342—508.

Corporations for loaning money and dealing in bonds and securities without banking and discounting privileges, see art. 1524a.

Credit life insurance and credit health and accident insurance, see V.A.T.S. Insurance Code, art. 3.53.

Interest, see art. 5069 et seq.

Liens, abstracts of judgment, see art. 5447.

Limit on rate of interest, see art. 5071.

Negotiable instruments, filling up blanks, see art. 5932, § 14.

Receivers, see art. 2293 et seq.

Usury, rate of interest in absence of contract, see Const. art. 16, § 11.

TITLE 108—PENITENTIARIES

Art.
6203d—1. Deposit of revenues derived from easements; damages to property [New].

2. REGULATIONS AND DISCIPLINE

Art. 6203a. Lease of prison lands for oil and gas

Creation of board

Section 1. A Board is hereby created to consist of the Commissioner of the General Land Office, one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, and the chairman of the State Prison Board, who shall perform the duties hereinafter indicated; the Board shall be known as the "Board for Lease of Texas Prison Lands." The term "Board" wherever it appears hereafter in this Act shall mean the "Board for Lease of Texas Prison Lands." This Board shall keep a complete record of all its proceedings. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Lease of lands of state departments, boards and agencies, see art. 5382d.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

Art. 6203c. Improvement of prison system

Prison-Made Goods Act of 1963

Sec. 9. (a) This Section may be cited as the "Prison-Made Goods Act of 1963."

(b) It is hereby declared to be the intent of this Act:

(1) To provide more adequate, regular and suitable employment for the vocational training and rehabilitation of the prisoners of this state, consistent with proper penal purposes;

(2) To utilize the labor of prisoners for self-maintenance and for reimbursing this state for expenses incurred by reason of their crimes and imprisonment; and

(3) To effect the requisitioning and disbursement of prison products directly through established state authorities without possibility of private profits therefrom.

(c) The Texas Department of Corrections is authorized to purchase in the manner provided by law, equipment, raw materials and supplies, and to engage the supervisory personnel necessary to establish and maintain for this state at the penitentiary or any penal farm or institution now or hereafter under control of said Board, industries for the utilization of services of prisoners in the manufacture or production of such articles or products as may be needed for the construction, operation, maintenance or use of any office, department, institution or agency supported in whole or in part by this state and the political subdivisions thereof.

(d) On and after the effective date of this Act, all offices, departments, institutions and agencies of this state which are supported in whole or

in part by this state shall purchase from the Texas Department of Corrections all articles or products required by such offices, departments, institutions, agencies, or political subdivisions of this state, produced or manufactured by the Texas Department of Corrections with the use of prison labor, as provided for by this Act, and no such article or product may be purchased by any such office, department, institution or agency from any other source, unless excepted from the provisions of this subparagraph as hereinafter provided. All purchases made by state agencies shall be made through the Board of Control upon requisition by the proper authority of the office, department, institution or agency. Political subdivisions of this state may purchase directly from the Texas Department of Corrections.

Any article or product manufactured by the Texas Department of Corrections for sale through the State Board of Control to any office, department, institution or agency of the state or to any political subdivision thereof, shall be manufactured and/or produced only upon state specifications developed by and through the State Board of Control. However, if such specifications have not been developed by the Board of Control then production may be based upon commercial specifications in current use by industry for the manufacture of such articles and products for sale to the state and political subdivisions thereof which have first been approved by the State Board of Control. For purposes of this Act, state specifications and commercial specifications approved by the Board of Control shall mean the latest complete version of any specification including amendments thereto.

(e) Exceptions from the operation of the mandatory provisions in the first paragraph of subparagraph (d) hereof may be made in any case where, in the opinion of the State Board of Control, the article or articles or product or products so produced or manufactured does or do not meet the reasonable requirements of or for such offices, departments, institutions, agencies, or in any case where the requisitions made cannot be reasonably complied with. No such office, department, institution, or agency shall be allowed to evade the intent and meaning of this Section by slight variations from standards adopted by the State Board of Control, when the articles or products produced or manufactured by the Texas Department of Corrections, in accordance with established standards, are reasonably adapted to the actual needs of such office, department, institution, or agency.

(f) The Texas Department of Corrections shall cause to be prepared, at such times as it may determine, catalogues containing an accurate and complete description of all articles and products manufactured or produced by it pursuant to the provisions of this Act. Copies of such catalogues shall be sent to all offices, departments, institutions and agencies of this state and made accessible to all political subdivisions of this state referred to in the preceding subparagraphs. At least thirty (30) days before the beginning of each fiscal year, the Board of Control shall provide to the Texas Department of Corrections summary reports of the kind and amount of articles and products purchased for state offices, departments, institutions, and agencies based upon the previous nine (9) months experience. Not more than one hundred (100) days following the close of each fiscal year, the State Board of Control shall submit to the Texas Department of Corrections a report showing the kinds and amounts of such prison-manufactured articles purchased by all state offices, departments, institutions, and agencies based upon the purchase experience of the entire previous fiscal year. All such reports shall refer, insofar as possible, to the items or

products contained in the catalogue as issued by the Texas Department of Corrections. The Board of Control may at any time request the Texas Department of Corrections to manufacture or produce additional articles or products.

(g) In keeping with the primary objective of vocational training and rehabilitation of prisoners, the articles or products manufactured or produced by prison labor in accordance with the provisions of this Act shall be devoted, first, to fulfilling the requirements of the offices, departments, institutions and agencies of this state which are supported in whole or in part by this state; and secondly, to supplying the political subdivisions of this state with such articles and products.

(h) The Texas Department of Corrections and the Board of Control shall fix and determine the prices at which all articles or products manufactured or produced shall be furnished.

(i) In addition to the information ordinarily required by law in the annual audits of expenditures and operations of the Texas Department of Corrections made by the State Auditor, after the effective date of this Act such annual audit reports shall also include a detailed statement of all materials, machinery or other property procured, and the cost thereof, and the expenditures made during the audited year for manufacturing purposes, together with a statement of all materials on hand to be manufactured, or in process of manufacture, or manufactured, and the values of all machinery, fixtures or other appurtenances for the purpose of utilizing the productive labor of prisoners, and the earnings realized therefrom during the year.

(j) The Texas Board of Corrections shall have the power and authority to prepare and promulgate policies which are necessary to give effect to the provisions of this Act with respect to matters of administration respecting the same.

(k) In order to carry out the provisions of this Act, the Legislature shall authorize in its biennial Appropriations Acts an industrial revolving fund, and set the amount therein, for the use of the Texas Department of Corrections; and said Department is authorized to expend such monies out of appropriations for said revolving fund as may be necessary to erect buildings, to improve existing facilities, to purchase equipment, to procure tools, supplies and materials, to purchase, install or replace equipment, and otherwise to defray the necessary expenses incident to the employment of prisoners as herein provided.

(l) All monies collected by the Texas Department of Corrections from the sale or disposition of articles and products manufactured or produced by prison labor in accordance with the provisions of this Act, shall be forthwith deposited with the State Treasurer to be kept and maintained in the industrial revolving fund authorized by this Act, and such monies so collected and deposited shall be used solely for the purchase of raw materials, manufacturing supplies, equipment, machinery and buildings used to carry out the purposes of this Act, to otherwise defray the necessary expenses incident thereto, including the employment of such necessary supervisory personnel as is unavailable in the prison inmate population, all of which shall be subject to the approval of the Texas Board of Corrections; provided, however, that said industrial revolving fund shall never be maintained in excess of the amount necessary to carry out efficiently and properly the intentions of this Act. When, in the opinion of the Governor and the Legislative Budget Board, said industrial revolving fund has reached a sum in excess of the requirements of this Act, such

excess shall be transferred by the Texas Department of Corrections to the State General Revenue Fund.

(m) On and after the effective date of this Act, it shall be unlawful to sell or offer for sale on the open market of this state, any articles or products manufactured wholly or in part, in this or any other state by prisoners of this state or any other state, except prisoners on parole or probation; however, the Texas Board of Corrections shall have the power to authorize the Director of the Texas Department of Corrections to sell and dispose of all surplus agricultural products and all personal property owned by the Texas Department of Corrections, which have not been manufactured by the Department for the purpose of sale, at such prices and on such terms and under such rules and regulations as it deems best to adopt. The Texas Department of Corrections shall continue to exercise its rights and privileges as provided in the Salvage and Surplus Act of 1957 (compiled as Article 666 of Vernon's Texas Civil Statutes), relative to the sale and disposal of serviceable state personal property no longer needed by state agencies.

(n) Any person who wilfully violates the provisions of subsection (m) of this Act shall be guilty of a misdemeanor, and upon conviction, shall be confined in jail not less than ten (10) days nor more than one (1) year, or fined not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00) or both, in the discretion of the court. As amended Acts 1963, 58th Leg., p. 437, ch. 155, § 1.

Effective Sept. 1, 1963.

Acts 1963, 58th Leg., p. 437, ch. 155, § 2, provided: "The provisions of this Act shall be liberally construed to achieve the primary objective of vocational training and rehabilitation of prisoners through work in industrial types of activities which also will best serve the economical and efficient operation of state agencies. The pro-

visions of this Act shall be considered as supplementary, or addition to, other existing provisions of law relative to the employment of prisoners."

Section 3 of the 1963 amendatory act repealed all conflicting laws and parts of laws.

Art. 6203d—1. Deposit of revenues derived from easements; damages to property

Section 1. From and after the effective date of this Act, all monies received by the Department of Corrections derived from easements on property under its custody and control, and all monies received by the Department of Corrections as damages to property under its custody and control shall be deposited to the Texas Department of Corrections Special Mineral Fund, created by the provisions of Section 16 of Senate Bill No. 354, Acts of the 52nd Legislature, Regular Session, 1951, Chapter 325, page 556.¹ Acts 1963, 58th Leg., p. 471, ch. 168.

¹ Article 5382d.

Effective May 17, 1963.

TITLE 109—PENSIONS

2. CITY PENSIONS

Art.

6243e—2. Firemen's pensions in cities of
350,000 to 400,000 [New].

Art.

6243g—1. Police Officers' Pension System
in cities of 900,000 or more
[New].

1. STATE AND COUNTY PENSIONS

Art. 6204. [6267] Tax

Denial of right to work because of age,
see art. 6252—14.

Art. 6228a. Retirement system for State employees

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:

A. "Retirement System" shall mean the Employees Retirement System of Texas as defined in Section 2 of this Act.

B. "Employer" shall mean the State of Texas.

C. "Member" shall mean any officer or employee included in the membership of the System as provided in Section 3 of this Act.

D. "State Board of Trustees" shall mean the Board, provided for in Section 6 of this Act, to administer the Retirement System.

E. "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 Employees Saving Fund, together with all interest credits thereto.

F. "Earnable Compensation" shall mean the full rate of the compensation that would be payable to a member 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.

G. "Actuarial Equivalent" shall mean a benefit of equal value when computed upon a basis of such mortality tables as shall be adopted by the State Board of Trustees and interest.

H. "Actuarially Reduced" shall mean the present worth value of the reserve required to pay a service retirement allowance plan, as provided and set forth in this Act, calculated at age sixty (60) under factors established by the Board of Trustees and divided by the factor of the attained age of the beneficiary and/or the retirement optional plan selection factor of the attained age of the beneficiary and nominee, and said reduced allowance shall be applicable in all instances where the beneficiary is less than age sixty (60) at time of retirement, or in the event of death where an optional plan selection has been made under the provisions as set forth in this Act. As amended Acts 1963, 58th Leg., p. 1194, ch. 477, § 2; Acts 1963, 58th Leg., p. 1372, ch. 524, § 1.

Establishment, Name, Powers and Purpose

Sec. 2. A. The Employees Retirement System of Texas heretofore established under the laws of this State is hereby continued in corporate existence, but rights of membership in such System, retirement privileges and benefits thereunder, and the management and operation of said System from the effective date of this Act shall be governed by the provisions of this Act.

B. Said System shall continue to be known as the Employees Retirement System of Texas, and by such name all of its business shall be transacted, all its funds invested, and all its cash, securities and other properties shall be held.

C. The Retirement System herein provided for shall be maintained and administered in accordance with the provisions of this Act, to provide for the payment of retirement annuities and other benefits to members and their beneficiaries.

D. The Retirement System shall have the powers and privileges of a corporation and shall have also the powers, privileges and immunities hereinafter conferred.

Membership

Sec. 3. A. The membership of said Retirement System as an appointive officer or employee of any department, commission, institution or agency of the State Government of the State of Texas shall be composed as follows:

All persons who on the effective date of this Act are members of the Employees Retirement System of Texas shall continue to be members of this System subject to the provisions of this Act. The following persons shall, however, not be eligible for participation in the Retirement System:

1. Persons who are covered by the Teachers Retirement System or the Judicial Retirement System of the State of Texas.

2. Persons employed on a piecework basis or operators of equipment or drivers of teams whose wages are included in the rental rate paid the owners of said equipment or team.

3. Employees who are employed in a position normally requiring less than nine hundred (900) hours per year.

Notwithstanding any other provisions of this Act, it is expressly provided herein that the Texas Public Employees Association of Texas shall be designated as a State agency, for retirement purposes only. This Association was formed and supported by contributions of employees of the State of Texas for the purpose of increasing efficiency in the State Government and therefore it is further expressly provided herein that the employees of this Association shall be members of the Retirement System and as such shall be governed by the same restrictions, privileges, and benefits as other employee members.

B. The membership of said Retirement System as an elective State official of the State of Texas shall be composed as follows:

1. The membership of said Retirement System shall be composed of any elective State official or appointee in an elective office of the State including all elected or appointed members of the State Legislature, but shall not include any elective official in the Judicial, Education, District, or County, of the State of Texas.

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

2. Any person who on January 1, 1963, is an elective State official as defined herein, shall, before October 1, 1964, execute an election to become a member of the Retirement System as of January 1, 1963, or election not to become a member of the Retirement System. This election to become a member or not to become a member shall be filed with the State Board of Trustees on a form provided by the Board. The election not to become a member will include a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the System. Contributions shall be due and payable for the month of January, 1963, and each month thereafter, and membership service shall begin as of January 1, 1963.

3. Any person who becomes an elective State official by reason of election or appointment after January 1, 1963, shall within six (6) months from the month in which he takes the oath of office or October 1, 1964, whichever date is later, execute an election to become a member of the Retirement System or not to become a member of the Retirement System. This election to become a member or not to become a member shall be filed with the State Board of Trustees on a form provided by the Board. The election not to become a member will include a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the System. Contributions shall be due and payable for the month in which he takes the oath of office, and each month thereafter, and membership service shall begin with the first day of the month in which he takes the oath of office.

C. Any person who becomes an appointive officer or employee on or after the effective date of this Act shall become a member of the Retirement System on the first day of the month in which he is employed as a condition of his employment. Contributions by such a member under this Act shall begin with the first monthly payroll period following the month in which he is employed and creditable service shall then begin to accrue. Any person elected or appointed to an elective office shall become a member of the Retirement System in the same month in which he takes the oath of office as a requirement for filling such elective position, if he elects to become a member of the Retirement System.

D. Should any member who was an appointive State officer or employee in any period of six (6) consecutive years after becoming a member be absent from service more than sixty (60) consecutive months, he would automatically terminate membership if he has less than fifteen (15) years creditable service; if an elective State official eight (8) years; or should any member withdraw his accumulated contributions, or become a beneficiary, or upon death, he shall thereupon cease to be a member; however, during the time the United States was or is involved in organized conflict whether in a state of war or in a police action involving conflict with foreign forces, or for reason of a crisis within this country, and within a period of twelve (12) months thereafter, time spent by a member of the Employees Retirement System (1) in the Armed Forces of the United States of America and their auxiliaries and/or in the Armed Forces Reserve of the United States of America and their auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereinto, or (2) in war work as a direct result of having been drafted and/or conscripted into said war work, shall not be construed as absent from service insofar as the provisions of this Act are concerned. The State Board of Trustees shall determine and by order define the period or periods which shall be recognized as involving organized conflict or crisis within the contemplation of this Act.

Creditable Service

Sec. 4. A. Creditable service shall be the total of prior service plus membership service. For appointive officers and employees of the State, prior service shall be granted for eligible service rendered prior to the establishment of the Retirement System on September 1, 1947, and membership service shall be granted for eligible service rendered on and after September 1, 1947. Service as an elected State official as defined in this Act may be claimed as creditable service as an appointed officer or employee.

Under such rules and regulations as the State Board of Trustees shall adopt, each appointive officer or employee, as defined in Section 3 of this Act, at any time prior to September 1, 1947, and who becomes an appointive officer or employee and continues as such for a period of five (5) consecutive years, or who was a member at the beginning of the System, shall file a detailed statement of all Texas service, as an appointive officer or employee, rendered by him prior to the date of the establishment of the Retirement System, for which he claimed credit.

B. Creditable service shall be the total of prior service plus membership service. For elective State officials, prior service shall be granted for eligible service rendered prior to January 1, 1963, and membership service shall be granted for eligible service rendered on and after January 1, 1963.

Under such rules and regulations as the Board of Trustees shall adopt, each elective State official who was employed as defined in Section 3 of this Act, at any time prior to January 1, 1963, as an elective State official, who on that date or thereafter becomes an elective State official shall file a detailed statement of all service as an elective State official rendered by him for which he claimed credit.

It is expressly provided herein that any service allowed under the provisions of this Act as a member of the Legislature of Texas, for retirement purposes, either as an appointive officer or employee or as an elective State official shall be computed on the basis of earnable compensation at the rate of Four Thousand, Eight Hundred Dollars (\$4,800) per annum.

It is expressly provided in this Act that creditable service of any elective State official may be transferred by him upon his application to the Board of Trustees to coverage under the requirements and benefits for appointive officers or employees as provided in this Act. Provided, however, that before such transfer can be made, such elective State official must pay all such contributions and fees required of an appointive State officer or employee prerequisite for such benefits. It is also provided that if such transfer is filed by an elective State official and this election is made, that State matching contributions from the State shall be provided in the same manner as set forth in the provisions of the Employees Retirement Act herein.

It is expressly provided in this Act that any elective State official may claim such service as an appointive State officer or employee, to be included with his elective service, for benefits under this Act, and that further, such service must be claimed by the elective State official and after verification by the State Board of Trustees shall be granted.

C. The State Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one (1) year of service, but in no case shall more than one (1) year of service be creditable for all service in one (1) year.

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

D. Subject to the above restrictions and to such other rules and regulations as the State Board of Trustees may adopt, the State Board of Trustees shall verify and adjust, as soon as practicable after the filing of such statements of service, the service therein claimed.

E. Upon adjustment and verification of the statement of service, the State Board of Trustees shall issue prior service certificates certifying to each member the length of Texas service rendered prior to the date of the establishment of the Retirement System, with which he is credited on the basis of his statement of service. So long as membership continues a prior service certificate shall be final and conclusive for retirement purposes as to such service, provided, however, that any member may, within one (1) year from the date of issuance or modification of such certificate, request the State Board of Trustees to modify or correct his prior service certificate. When membership ceases, such prior service certificate shall become void. Should he again become a member, such person shall enter the System as a member not entitled to prior service credit except as provided elsewhere in this Act.

F. Each appointed officer or employee, as defined in this Act, who has heretofore withdrawn his contributions and cancelled his accumulated creditable service for retirement purposes, may, if he returns to State employment and continues as such for a period of five (5) consecutive years, or if an elective State official, upon taking the oath of office, be entitled to deposit in the Retirement System in a lump sum payment the amount withdrawn with a penalty interest of two and one half per cent (2½%) per annum from the date of withdrawal to the date of redeposit, plus any membership fees due, and have his creditable service reinstated for retirement purposes; however, it is provided that the amount withdrawn by the person and deposited with the System shall be placed in his individual account in the Employees Saving Fund and the two and one half per cent (2½%) per annum penalty interest shall be placed in the State Accumulation Fund. The amounts to be deposited shall be determined in each case by the Employees Retirement System and in no event shall any such person be granted retirement upon such former service credits until the amount so determined shall have been paid in full.

Each appointed officer or employee as defined in this Act, and who heretofore executed a waiver of membership in the Retirement System may, if he has been employed from the date he executed the waiver of membership, or in the event such person left employment and returns to State employment and continues as such for a period of five (5) consecutive years, or if an elective State official, upon taking the oath of office, shall have the privilege of electing to receive credit for all previous creditable State service provided such person shall deposit with the Employees Retirement System in a lump sum all back deposits, assessments and dues which he would have paid or deposited had he been a member of the System during each of the years and months employed commencing with the State fiscal year September 1, 1947, if an appointive officer or employee, and January 1, 1963, if an elective State official, together with penalty interest on the date each amount was payable at the rate of two and one half per cent (2½%) per annum, and provided further that the back deposits required shall be placed in his individual account in the Employees Saving Fund, and the penalty interest of two and one half per cent (2½%) per annum shall be placed in the State Accumulation Fund. The amounts to be deposited shall be determined in each case by the Employees Retirement System and in no event shall any such person be granted retirement upon such former service credits until the amounts so determined shall

have been paid in full, and provided further that the total of all such back deposits shall be matched by an equal sum by the State of Texas in the manner and from the funds as now provided in the State Employees Retirement Act.

G. Credit for Military Service.

During the time the United States was or is involved in organized conflict whether in a state of war or a police action involving conflict with foreign forces or for reason of a crisis within this country, and within a period of twelve (12) months thereafter, time spent by a member of the Employees Retirement System (1) in the Armed Forces of the United States of America and its auxiliaries and/or in the service of the American Red Cross as a result of having volunteered or having been drafted and/or conscripted thereto, or (2) in war work as a direct result of having been drafted and/or conscripted into war work shall count towards creditable service, provided, however, that the time so credited shall be limited to two (2) years and further provided that such service shall not be credited unless the member enters into such service directly from State employment without other intervening employment and further that said member contributes to the Employees Retirement System a sum equal to the number of months in active service as set forth herein times the rate of his last contribution prior to entering such service. The funds so contributed shall be deposited to the credit of the member's individual account in the Employees Saving Fund, and shall be treated in the same manner as funds contributed by the member while he was employed by the State. Any person employed or holding an elective State office who entered directly into military service prior to the establishment of the Retirement System either by induction or by enlistment shall be entitled to prior service credit for the time prior to establishment of the System. The State Board of Trustees shall determine and by order define the period or periods which shall be recognized as organized conflict or crisis within the contemplation of this Act.

Benefits

Sec. 5. A. Service Retirement Benefits for Appointive State Officers or Employees.

1. Any member may retire upon written application to the State Board of Trustees, setting forth at what time, not less than thirty (30) days or more than ninety (90) days subsequent to the execution of and filing thereof, he desires to be retired, provided that retirement will be effective only as of the last day of a calendar month, and 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 ten (10) or more years of creditable service. It is provided further, however, that a member who has completed ten (10) or more years of creditable service as a commissioned peace officer engaged in criminal law enforcement activities of the Department of Public Safety, Game and Fish Commission, Liquor Control Board, or as a custodial employee of the State Board of Corrections of the State of Texas and who has attained the age of fifty-five (55) years shall be eligible for retirement.

2. Any member may withdraw from service prior to the attainment of the age of sixty (60) years who shall have completed at least fifteen (15) years of creditable service and shall become entitled to a service retirement allowance upon his attainment of the age of sixty (60) years, or at his option, at any date subsequent to his attainment of said age pro-

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

vided that such member was then living and had not withdrawn his contributions.

3. Any member may withdraw from service prior to the attainment of the age of sixty (60) years who shall have completed at least thirty (30) years of creditable service and shall become entitled to a service retirement allowance provided that such member has attained the age of fifty-five (55) and provided further that his retirement allowance shall be actuarially reduced from age sixty (60) to the earlier retirement age. It is further provided that a member who has completed twenty (20) or more years of creditable service as a commissioned peace officer engaged in criminal law enforcement activities of the Department of Public Safety, Game and Fish Commission, Liquor Control Board, or as a custodial employee of the State Board of Corrections of the State of Texas, may withdraw from service prior to the attainment of the age of fifty-five (55) years and shall become entitled to a service retirement allowance provided such member has attained the age of fifty (50) and provided further that his retirement allowance shall be actuarially reduced from age fifty-five (55) to the earlier retirement age.

4. A custodial employee of the State Board of Corrections shall be defined as an employee whose duties require supervision of or frequent contact with the inmates of the State Board of Correction, including any employee who is subject to call at the risk of life to suppress riots.

B. Allowance for Service Retirement.

1. The allowance for service retirement shall be computed on the basis of the average monthly compensation of the member for the sixty (60) highest consecutive months of compensation during the last one hundred and twenty (120) months of creditable service. The rate of benefits shall be based upon the following schedule:

First ten (10) years of service	1.00% per year
Second ten (10) years of service	1.25% per year
Third ten (10) years of service	1.50% per year
All subsequent years	1.75% per year

It is provided however, that if the retirement annuity calculated on the basis of the Rate of Benefits set forth herein is less than Thirty Dollars (\$30) per month, then the benefits shall be increased to equal the sum of Thirty Dollars (\$30) per month.

It is expressly provided that any annuity or allowance payable under the provisions of this Act shall begin with the last day of the month following the effective date of retirement and shall be paid in monthly installments and shall cease with the last day of the month preceding the month in which the beneficiary or person dies who is receiving such an annuity or allowance as provided in this Act.

It is further provided that the Rate of Benefits schedule as provided for by this Act shall be applied to all service retirement annuities payable on the effective date of this Act and previously awarded under the laws governing the Employees Retirement System as effective September 1, 1958; provided, however, that nothing herein shall be construed as authorizing an increase in the minimum service retirement annuity where the original annuity calculated at less than the minimum allowance, unless such original annuity, after the application of the Rate of Benefits schedule as provided herein exceeds the minimum service retirement allowance provided by law.

It is expressly provided, however, that where the Board of Trustees determines that sufficient funds are available from the interest transferred to the State Accumulation Fund, the Board, as of August 31st each year, may supplement minimum retirement annuities by providing for the payment, from such fund, a sufficient sum to equal a minimum retirement annuity subject to the following provisions.

For service retirement annuities calculated at less than Forty Dollars (\$40) per month, the Board may establish a minimum retirement annuity not to exceed Forty Dollars (\$40) per month. For service retirement annuities calculated at Forty Dollars (\$40) or more per month, the Board may establish a minimum retirement annuity not to exceed Fifty Dollars (\$50) per month. For disability retirement annuities, the Board may establish a minimum annuity of twenty-five per cent (25%) of the compensation, as provided by law, or Sixty Dollars (\$60) per month, whichever is the greater.

2. It is expressly provided that no annuity being paid to a beneficiary of the Retirement System who retired prior to September 1, 1958, shall be decreased by the provisions of this Act.

3. Optional Allowances for Service Retirement.

With the provision that no selection shall be effective in case a beneficiary dies during the month 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 annuity in an annuity payable throughout life, or he may elect to receive the actuarial equivalent at that time, or his annuity in a reduced annuity payable throughout life with the provisions that:

Option (1) Upon his death, his reduced 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 ($\frac{1}{2}$) of his reduced 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) In the event of his death before sixty (60) monthly payments of such annuity have been made, such payments shall be continued to such person as he may nominate in writing, or to the administrator of his estate, until the remainder of the sixty (60) payments have been made; or

Option (4) In the event of his death before one hundred and twenty (120) monthly payments of such annuity have been made, such payments shall be continued to such person as he may nominate in writing, or to the administrator of his estate, until the remainder of the one hundred and twenty (120) payments have been made; or

Option (5) Such other benefit arrangement as may be approved by the Board of Trustees and the whole of which benefit is certified by the Actuary to constitute the reduced actuarial equivalent of the retirement benefit to which the member is entitled.

4. Re-employment of Retired Appointive Officers or Employees.

Any retired appointive officer or employee may return to State Employment as an appointive officer or employee, on a temporary basis, pro-

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

vided, however, that such re-employment shall not be for a longer period than nine (9) months within any one (1) year. It is provided that in the event a retired State appointive officer or employee resumes temporary employment with a State department, commission, institution or agency, he shall notify the Retirement System in writing prior to resuming actual employment, and further, it shall be mandatory upon the head of any State department, commission, institution or agency of the State to likewise notify the Retirement System in writing before employment of a retired State appointive officer or employee and shall furnish the Retirement System the name of said retired appointive officer or employee and the dates of employment. During the time a retired appointive officer or employee is so employed, retirement benefit payments that would otherwise have been paid to said member, shall be suspended and shall be resumed when said member leaves said employment, provided that the annuity payments so suspended shall be paid into the State Accumulation Fund. Part month employment shall constitute a full month, and any portion of a month employed shall void a retirement benefit payment for said month of employment. It is provided further that if the retired member had elected to receive an annuity in a guaranteed payment for a certain number of years or months after retirement, that the time so spent in State employment by such retired member after the initial or original retirement shall count as time within said certain number of years or months, the same as if said retired member had not returned to State employment, provided that said retired member temporarily employed shall not contribute to the Retirement System during such re-employment, and the Retirement Plan in effect at the time of his original retirement shall remain unchanged.

C. Disability Retirement Benefits for Appointive Officers or Employees.

1. Upon the application of a member or his employer or his legal representative acting in his behalf, any member, under age sixty (60), who has had ten (10) 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 nonoccupational 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.

Upon the application of a member or his employer or his legal representative acting in his behalf, any member regardless of age and regardless 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 an Occupational 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, as such incapacity is likely to be permanent, and such person should be retired.

2. Allowance on Disability Retirement—Nonoccupational, for Appointive Officers or Employees.

Upon retirement for disability (nonoccupational) 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 computed at one and one-fourth per cent ($1\frac{1}{4}\%$) per year of service, multiplied by the average monthly compensation for the sixty (60) highest

consecutive months during his last preceding one hundred and twenty (120) months of creditable service, provided, however, that in no event will his disability retirement allowance be less than twenty-five per cent (25%) of his average compensation so computed, nor his maximum benefit exceed fifty per cent (50%) of his average compensation so computed.

3. Allowance on Occupational Disability Retirement for Appointive Officers or Employees.

Upon retirement for occupational disability a member shall receive a disability retirement allowance computed at one and one-fourth per cent (1¼%) per year of creditable service multiplied by the monthly rate of compensation being paid to the member at the time of the disabling injury or disease; provided, however, that in no event shall the disability retirement allowance be less than twenty-five per cent (25%) nor more than fifty per cent (50%) of the monthly rate of compensation.

It is expressly provided that all occupational disability retirements previously awarded and in effect at the time this Act becomes effective, shall be reviewed, and the benefits of this Act shall be applied to each retirement; provided, however, that no person shall receive an annuity less than that being paid at the effective date of this Act. As amended Acts 1963, 58th Leg., p. 1194, ch. 477, § 1; Acts 1963, 58th Leg., p. 1372, ch. 524, § 1.

4. 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) 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 (1) 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 (1) year, all his rights in and to his allowance shall be revoked by the State Board of Trustees.

5. 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 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 member, 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.

6. 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 the balance of his retirement reserve shall be transferred to the Employees Saving Fund and to the State Accumulation Fund, respectively, in proportion to the

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

original sum transferred to the Retirement 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. 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 exceed the annuity payments received by such beneficiary under his disability allowance, if any such excess exists, shall be paid from the Retirement 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.

It is provided, however, that if the disability beneficiary has been retired for occupational disability and should such beneficiary die while receiving such occupational disability benefits, an amount equal to the amount by which such beneficiary's accumulated contributions at the time of occupational disability retirement, plus an amount equal to the annual salary of the disability beneficiary at the rate of pay at the time of the occupational disability retirement, exceeds the annuity payments received by such beneficiary under his occupational disability allowance, if any such exists, 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, and provided further, that this refund as set forth herein shall be made only if the cause of the death of the beneficiary is from or connected with the occupational injury or disability resulting in the occupational disability retirement; otherwise, the provisions above set forth in this paragraph shall apply.

7. It is expressly provided herein that an appointive officer or employee who applies for Occupational Disability Retirement benefits shall be required to furnish the Board of Trustees all information and data requested by the Board of Trustees and provided further that the head and all employees of the department in which the member applying for Occupational Disability Retirement is employed shall be required to furnish all information and data concerning the application for Occupational Disability Retirement of the member and further, the Board of Trustees shall have the right to inquire and require any additional data concerning the application for occupational disability in order that the Board may have all information necessary to act upon said application for occupational disability. In the event that such information is withheld or denied, then the Board of Trustees may refuse to accept the application for Occupational Disability Retirement and shall consider the application only for Nonoccupational Disability Retirement benefits. It is expressly provided herein that the Board of Trustees shall act upon the facts and its decision regarding Occupational Disability Retirement herein applied for, shall be final.

D. Service Retirement Benefits for Elective State Officials.

1. Any member may retire upon written application to the State Board of Trustees, setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution of and filing thereof, he desires to be retired, provided that retirement will be effective only as of the last day of a calendar month, and provided that the said member at the time so specified for his retirement shall have at-

tained the age of sixty (60) years and shall have completed eight (8) or more years of creditable service.

The Regular Maximum Service Retirement allowance with not less than eight (8) years or more than ten (10) years of service and with an attained age of sixty (60) years or over shall be One Hundred Dollars (\$100) per month. Each additional year of service in excess of ten (10) years shall increase the Regular Maximum Service Retirement allowance Ten Dollars (\$10) per month.

2. Any member who has accumulated a minimum of eight (8) years of service as provided herein and who does not withdraw his account from the Retirement System prior to the attainment of age sixty (60) shall remain an active member and shall be entitled to a service retirement allowance upon attaining age sixty (60).

3. It is provided herein that for service retirement elective State officials shall be eligible to select any of the Optional allowance plans as provided for appointive officers and employee members as set forth in Section 5, Subsection B, Paragraph 3, of this Act. As amended Acts 1963, 58th Leg., p. 1194, ch. 477, § 3; Acts 1963, 58th Leg., p. 1372, ch. 524, § 1.

4. Disability Retirement Benefits.

Upon the application of a member or his employer or his legal representative acting in his behalf, any member under age sixty (60), who has eight (8) 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, provided 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. The benefit to be paid by the Retirement System shall be the same as that set forth for service retirement without reduction for reason of age, provided, however, that no optional plan may be selected, and further provided that should the disabled retired member die before the full amount of contributions standing to his credit shall have been paid, then the remainder of his account shall be paid to the beneficiary of such disabled retired member. It is provided herein that additional provisions after disability retirement applicable for appointive officers and employee members as set forth in Section 5, Subsection C, Paragraphs 4, 5, and 6, will be applicable also to disability retirement for elective State officials.

E. Return of Accumulated Contributions.

1. Should a member with less than fifteen (15) years of creditable service cease to be employed, except by death or retirement, under the provisions of this Act he shall be paid in full the amount of accumulated contributions standing to the credit of his individual account in the Employees Saving Fund.

2. 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.

3. Provided, however, in the event that the death of the appointive officer or employee member is an occupational death, there shall be refunded, in addition to any other benefit or payment authorized by this Act, an amount equal to the full annual salary of the deceased appointive officer

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or employee member based upon his rate of pay at the time of death, but such additional refund shall be paid only to the surviving spouse, and if no surviving spouse, then payment shall be made to the dependent children, if any, and provided that such additional death benefit shall be paid from the State Accumulation Fund. The Board of Trustees shall determine if the death is an occupational death, and its decision shall be final.

4. 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 be found after seven (7) years, his accumulated contributions shall be forfeited to the Retirement System and credited to the State Accumulation Fund.

5. It is provided that any member who has completed thirty (30) years of creditable State service in Texas, may by written designation in such form as the Board of Trustees may prescribe, select a nominee and an optional allowance for retirement as set forth under the preceding Subsection B, Paragraph 3, providing for optional allowances for service retirement, and which selection shall become effective and payable to such nominee beginning with the month following the month in which the member died, provided, however, unless such a member, having completed thirty (30) creditable years of State service in Texas shall have selected both a nominee and an optional allowance herein, then the provisions of the preceding Subsection E, Paragraphs 2 and 3, pertaining to death benefits shall apply upon death of the member.

6. It is provided that any member who has completed twenty (20) years of creditable State service in Texas, but less than thirty (30) years of creditable State service in Texas, may by written designation in such form as the Board of Trustees may prescribe, select a nominee and an optional allowance for retirement as set forth under the preceding Subsection B, Paragraph 3, providing for optional allowances for service retirement, and which shall become effective and payable to such nominee beginning with the month following the month in which the member died, provided, however, that it is required that said member shall be actively employed or on temporary sick leave or on workman's compensation at the time of his death. Unless such a member having completed twenty (20) creditable years of State service in Texas shall have selected both a nominee and an optional allowance herein, then the provisions of the preceding Subsection E, Paragraphs 2 and 3, pertaining to the death benefits shall apply upon the death of the member.

Administration

Sec. 6. A. State Board of Trustees.

1. The General Administration and responsibility for the 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 consist of six (6) members as follows:

(a) Three (3) members who shall be appointed with the advice and consent of the Senate as follows:

(1) A member who shall be appointed by the Governor to hold office for the term of six (6) years beginning September 1, 1958, and ending August 31, 1964.

(2) A member who shall be appointed by the Chief Justice of the Supreme Court of Texas to hold office for a four-year term beginning September 1, 1958, and ending August 31, 1962.

(3) A member appointed by the Speaker of the House of Representatives who shall hold office for a two-year term beginning September 1, 1958, and ending August 31, 1960.

It is provided that appointments of Trustees provided for after expiration of such original term as provided herein shall be made for a term of six (6) years.

(b) Three (3) Trustees shall be employee members of the Retirement System and shall be nominated and elected by the members of the Retirement System for a period of six (6) years each, according to such rules and regulations as the State Board of Trustees shall adopt to cover such nominations and elections and provided, however, that the elected employee members of the Board of Trustees on the date of September 1, 1958, shall continue to serve until the expiration of the term for which they were elected. Thereafter elections shall be held on or before July 31, 1961, and biennially thereafter for the purpose of nominating and electing an employee who is a member of the Retirement System to serve as an ex officio member of the Board of Trustees for a period of six (6) years, and said employee after being elected shall take the oath and begin his term as an ex officio member on the first day of September next following the election. It is further provided that all elections held for the nomination and election of an ex officio employee member trustee shall be on ballots made available to the members by the Board of Trustees. It is further provided that it shall be the additive and cumulative duty of every employee who is a member of the Employees Retirement System to serve as an ex officio member of the Board of Trustees after being nominated and elected as provided in the Act. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 11; Acts 1963, 58th Leg., p. 1372, ch. 524, § 1.

2. Vacancies of elected ex officio employee members of the Board of Trustees shall be filled by the Board from among members of the System. Provided, however, that no employee of a department shall be eligible to serve as an elected ex officio employee member of the Board of Trustees, during the term of an elected ex officio employee member of the Board of Trustees who is also employed by the same department.

3. 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.

4. 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 Employees 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.

5. Each Trustee shall be entitled to one (1) 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.

6. Subject to the limitations of this Act, the State Board of Trustees shall, from time to time, establish rules and regulations for eligibility of membership and for the administration of the funds created by this Act and for the transaction of its business.

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7. 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. The Executive Secretary appointed shall have been a citizen of Texas three (3) years immediately preceding his appointment, shall have executive ability and experience to carry out the duties of the office and shall hold his position until removed by the Board. 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 paid for like or similar service of the State of Texas.

8. 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.

9. 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 year, the amount of the accumulated cash and securities of the System, and the last balance sheet showing the financial condition of the System.

B. Legal Adviser.

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.

C. Medical Board.

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 conclusions and recommendations upon all the matters referred to it.

D. Duties of Actuary.

1. The State Board of Trustees shall designate an Actuary who shall be thoroughly qualified to act as 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.

2. Immediately after September 1, 1963, 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.

3. At least once in each five-year period following September 1, 1963, 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.

4. 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.

Management of Funds

Sec. 7. A. 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 as deposits from contributions of members or employer as herein provided, may be invested only in bonds and other evidences of indebtedness of the United States, and all other bonds or evidences of indebtedness which are guaranteed as to principal and interest by the United States; in bonds and other evidences of indebtedness, both general and special obligations, of the State of Texas and any of its agencies; in bonds or other evidences of indebtedness of municipal corporations or political subdivisions of the State of Texas both general and special obligations, which have been approved as to legality by the Attorney General of the State of Texas; and in securities in which the State Permanent School Fund or the Permanent University Fund of The University of Texas may be invested under present or hereafter enacted laws. 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 credited 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.

B. The State Board of Trustees, annually, on August 31st, shall transfer from the Interest Fund to the Expense Fund an amount as shall be determined by the Board to be necessary for the payments of expenses of the Retirement System in excess of the amount available to be paid from the Expense Fund to cover the expenses as estimated for the succeeding year. The Board annually, on August 31st, shall transfer to the Retirement Annuity Reserve Fund from the Interest Fund an amount equal to three and one half per cent ($3\frac{1}{2}\%$) interest on the mean amount in the Retirement Annuity Reserve Fund for the year then ending. The Board annually, on August 31st, shall transfer interest to the Employees Saving Fund at a rate not to exceed three per cent (3%) per annum on the amount in the Employees Saving Fund equal to the sum of the accumulated contributions standing to the credit at the beginning of each year of all members included in the membership of the System on August 31st of each year, and further, that such transfer of interest to said Fund shall be made before funds are transferred for Service Retirements effective August 31st of each year. The Board annually, on August 31st, after making transfer from the Interest Fund, as above provided, shall transfer all remaining interest in the Interest Fund to the State Accumulation

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Fund. As amended Acts 1963, 58th Leg., p. 1194, ch. 477, § 4; Acts 1963, 58th Leg., p. 1372, ch. 524, § 1.

C. 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.

D. For the purpose of meeting disbursements for annuities and other payments there may be kept available cash, not exceeding ten per cent (10%) of the total amount in the several funds of the Retirement System on deposit with the State Treasurer.

E. 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 services 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.

F. The assets and moneys of the Retirement System, from whatever source derived, shall be invested as a single fund, and all securities hereafter acquired, as well as those heretofore purchased, shall be held collectively for the proportionate benefit of all funds and accounts of the Retirement System.

Method of Financing

Sec. 8. A. The amount contributed by each member to the Retirement System shall be five per cent (5%) of the annual compensation paid to each member. The amount contributed by the State of Texas to the Retirement System shall not exceed during any one (1) year five per cent (5%) of compensation of all members 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; provided further that all contributions made by the State shall be from and charged to the respective funds appropriated, allocated, and provided to pay the salary or compensation of the member for whose benefit the contribution is made. All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one (1) of five (5) funds, namely, the Employees Saving Fund, the State Accumulation Fund, the Retirement Annuity Reserve Fund, the Interest Fund, and the Expense Fund.

1. The Employees Saving Fund.

The Employees Saving Fund shall be a fund in which shall be accumulated five per cent (5%) contributions from the compensation of members, including interest earnings. Contributions to and payments from the Employees Saving Fund shall be made as follows:

(a) Beginning on the effective date of this Act, each department of the State shall cause to be deducted from the salary of each member on each and every payroll period, five per cent (5%) of his earnable compensation. In determining the amount earnable by a member in a payroll period, the State Board of Trustees may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions

from compensation for any period less than one half ($\frac{1}{2}$) of a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deductions required of any member by such an amount as shall not exceed one-tenth ($\frac{1}{10}$) of one per cent (1%) of the annual compensation upon the basis of which such deduction is to be made.

(b) 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 department head of the State shall certify to the State Board of Trustees on each and every payroll, 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 Employees Saving Fund, and shall be credited to the individual account of the member from whose compensation said deduction was made.

(c) Interest on member's contributions shall be credited annually as of August 31, 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 more than sixty (60) consecutive months in any period of six (6) consecutive years, the Employees 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 members shall receive no interest on the amount due them under this Subsection, and the amount shall be held in a non interest-bearing account to be set up for such purpose.

(d) Upon the retirement of a member, his accumulated contributions shall be transferred from the Employees Saving Fund to the Retirement Annuity Reserve Fund.

2. State Accumulation Fund.

The State Accumulation Fund shall be the fund in which shall be accumulated all contributions made to the Employees Retirement System by the State of Texas. Contributions to and payments from this fund shall be made as follows:

(a) The State of Texas shall pay each year in equal monthly installments into the State Accumulation Fund an amount equal to the contributions of the members during such year. The State Board of Trustees shall certify annually to the Comptroller of Public Accounts and to the State Treasurer the amount so ascertained, and such an amount shall be paid each year in equal monthly installments in the manner hereinafter provided into the State Accumulation Fund by the Comptroller from the funds appropriated as contributions to the Employees Retirement System by the State of Texas.

(b) Upon the retirement of a member, an amount equal to the difference between the total reserve at present worth reserve value of the retirement annuity of the member and the amount standing to the credit

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of the individual account of the member who retires shall be transferred from the State Accumulation Fund into the Retirement Annuity Reserve Fund as a part of the reserve requirements for the annuity to be paid to the retired member.

3. Retirement Annuity Reserve Fund.

The Retirement Annuity Reserve Fund shall be the fund in which shall be held all reserves for annuities granted and in force and from which shall be paid all annuities payable as provided in this Act. This fund shall be made up of the transfers as follows:

(a) At the time of service or disability retirement the accumulated contributions of a retiring member shall be transferred from the Employees Saving Fund to the Retirement Annuity Reserve Fund as a partial reserve for the annuity purchased by his contributions.

(b) An amount equal to the difference between the total reserve at present worth reserve value of the retirement annuity of the member and the amount standing to the credit of the individual account of the member who retires shall be transferred from the State Accumulation Fund into the Retirement Annuity Reserve Fund as a part of the reserve requirements for the annuity to be paid to the retired member.

(c) Transfers and payments from the Retirement Annuity Reserve Fund shall be made as provided in Section 5, Subsection C, Paragraph 6, upon the death, restoration to active service or removal from the disability list of a beneficiary retired on account of disability.

4. Interest Fund.

The Interest Fund is hereby created to facilitate the crediting of interest to the various other funds. 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. The State Board of Trustees shall annually transfer to the credit of the State Accumulation 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.

5. 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 ensuing 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 Employees Saving Fund each year and each year thereafter he is a member of the System, and in addition thereto, a sum of Two Dollars (\$2), 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 Employees Saving Fund shall be made, as provided for in this Act; provided, however, that if said payment for the Expense Fund of any member is not made with said first payment of said member, the State Board of Trustees may deduct the amount of the payment for the Expense Fund from said first payment of said member.

(c) If the amount estimated to be required to meet the expenses of the State Board of Trustees is in excess of Two Dollars (\$2) per member contributor for the year, the State Board of Trustees as evidenced by a resolution by the Board recorded in its minutes shall transfer to the Expense Fund from the Interest Fund an amount necessary to cover the expenses as estimated for the year.

B. Collection of Contributions.

1. The collection of members' contributions shall be as follows:

(a) Each department or agency of the State shall cause to be deducted on each and every payroll of a member for each and every payroll period beginning on the effective date of this Act the contributions payable by such member, as provided in this Act. Each department or agency head of the State shall certify to the treasurer of said department or agency on each and every payroll a statement for the amount so deducted.

(b) The Treasurer or proper disbursing officer of each State department or agency on authority from the department or agency head shall make deductions from the compensation of members 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 payroll or report and the amount specified to be deducted shall be paid to the Employees Saving Fund of the Employees Retirement System, after which the Executive Secretary of the Board of Trustees shall make a record of all receipts and turn payments over to the Treasurer of the State of Texas and by him be credited to the Employees Saving Fund, and such funds shall be deemed as appropriated for use according to the provisions of this Act.

(c) 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 (1) such request of a member in any one (1) year.

2. The collection of the State's contributions shall be made as follows:

(a) From and after the effective date of this Act, there is hereby allocated and appropriated to the Employees Retirement System of Texas, in accordance with this Act, from the several funds from which the members benefited by this Act, receive their respective salaries, a sum equal to five per cent (5%) of the total compensation paid to the said respective members of said Retirement System and whose compensation is paid from funds directly controlled by the State.

(b) Thereafter, 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 Legislative Budget Board and Budget Division of the Governor's Office for review the amount necessary to pay the contributions of the State of Texas to the Employees Retirement System for the ensuing biennium. This amount shall equal five per cent (5%) of the total compensation paid members of the Retirement System and 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 the State Treasurer the estimated amount of contributions to be received from members during the ensuing year.

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(c) All moneys hereby allocated and appropriated by the State to the Employees Retirement System shall be paid to the Employees Retirement System in equal monthly installments based upon the annual estimate by the State Board of Trustees of the Employees 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 members' contributions during the year, then such adjustment shall be made at the close of each fiscal year as may be required. Each of said monthly installments shall be paid into the State Accumulation Fund in the amount certified by the State Board of Trustees.

Exemption from Execution

Sec. 9. All retirement annuity payments, member's contributions, optional benefit payments, and any and all rights accrued or accruing to any person under the provisions of this Act, as well as the moneys in various funds created by this Act, shall be and the same are hereby exempt from any State, County, or Local tax, levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassigned except as specifically provided in this Act. As amended Acts 1963, 58th Leg., p. 1194, ch. 477, § 5; Acts 1963, 58th Leg., p. 1372, ch. 524, § 1.

A. That any retired member who has been a member of a group insurance plan prior to retirement and who wishes to continue same after retirement may have any premiums due by him to be paid any group insurance deducted from his retirement allowance by specifically authorizing such deduction and payment in writing addressed to the Executive Secretary of the Employees Retirement System, provided, however, that such retired member may thereafter withdraw such authorization by a thirty (30) day written notice addressed to the Executive Secretary of such Retirement System.

Protection against Conversion of Funds and Fraud

Sec. 10. Any person who shall confiscate, misappropriate, or convert moneys representing deductions from members' salaries before such moneys are received by the Retirement System or after such moneys are received by the Retirement System shall be guilty of a felony and upon conviction be punished by confinement in the State Penitentiary for any term of years not less than one (1) nor more than five (5). Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified, any record or records of this Retirement System in any attempt to defraud such System as a result of such act shall be guilty of a felony and upon conviction be punished by confinement in the State Penitentiary for any term of years not less than one (1) or more than five (5). Should any change or error in the records result in any member or beneficiary receiving from the Retirement System more or less than he would have been entitled to receive had the records been correct, the State Board of Trustees shall correct such error, and so far as practicable shall adjust the payment in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Violation of Provisions.

Any person, including department heads, and any member of the employer and/or its treasurer or proper disbursing officer, who violates any provision of this Act other than those which the first paragraph of this Section applies shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) or more than One Thousand Dollars

(\$1,000). Any member of the System who knowingly receives money as a salary, which money should have been deducted from his salary under the provisions of this Act, shall be guilty of a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) and not more than Five Thousand Dollars (\$5,000).

Surety Bonds

Sec. 11. The Treasurer of the State of Texas shall, upon becoming custodian of the Employees Retirement Funds, give a bond in the sum of Fifty Thousand Dollars (\$50,000); the Executive Secretary shall give bond in the sum of Twenty-five Thousand Dollars (\$25,000), and the State Board of Trustees shall require any other employees and members of the State Board of Trustees to give bond in such amounts as the Board may deem necessary, conditioned that said bonded persons will faithfully execute the duties of the respective offices. All bonds shall be made with a good and solvent surety company, authorized to do business in the State of Texas, said bonds shall be made payable to the State Board of Trustees and shall be approved by it and the Attorney General of Texas. All expense necessary and incident to the execution of such bonds, including premiums thereon, shall be paid by the State Board of Trustees from the Expense Fund.

Amount of Benefits; Creditable Service

Sec. 12. It is further provided that all service retirement annuities calculated under the laws governing the Employees Retirement System as of August 31, 1958, and payable at the effective date of this Act, as well as all such annuities awarded subsequent to the effective date of this Act and until September 1, 1968, shall be increased by five per cent (5%); provided that nothing herein shall be construed as an increase in the minimum service retirement annuity where the original annuity calculated at less than the minimum allowance, unless such original annuity, after the application of the five per cent (5%) increase, as provided herein, exceeds the minimum service retirement allowance provided by law; and further, provided that no member who is entitled to a service retirement on or before August 31, 1968, shall receive as a service retirement benefit an amount which would be less than he would have been entitled to receive at the date of his retirement in an equivalent benefit calculated under the laws governing the Employees Retirement System of Texas as effective August 31, 1958, as amended herein.

B. Nothing in this Act shall be construed as reducing the annuities or benefit allowances heretofore approved for or awarded to any person prior to September 1, 1958, in accordance with the laws relating to the Employees Retirement System in effect August 31, 1958, provided that if the Service Retirement Benefit of any such retired beneficiary is less than the minimum prescribed under Section 5, Subsection B, Paragraph 1, as applicable then from and after September 1, 1958, such benefits shall be increased to the minimum prescribed for equivalent service as if said minimum retirement benefit was applicable on the effective date of the retirement.

C. It is further expressly provided herein that creditable service of all members of the Employees Retirement System of Texas as accumulated by each member and granted by this System as of August 31, 1958, shall not be reduced but shall be granted and shall be effective September 1, 1958.

D. It is expressly provided herein that no increase in contribution rate or benefits applicable to appointive officers and employees or retired

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members shall be effective on the date of passage of this Act, but shall become effective on September 1, 1963. As amended Acts 1963, 58th Leg., p. 1372, ch. 524, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

Art. 6228b. Retirement of justices, judges and commissioners of appellate and district courts

Right to retire at 65; retirement pay

Sec. 2. Any judge in this state may, at his option, retire from regular active service after attaining the age of sixty-five (65) years and after serving on one or more of the courts of this state at least ten (10) years continuously or otherwise, provided that his last service prior to retirement shall be continuous for a period of not less than one year. Any person who has served on one or more of the courts of this state at least eighteen (18) years, continuously or otherwise, shall after attaining the age of sixty-five (65) years, be qualified for retirement pay under this Act, and for purposes of computing his retirement pay, the annual salary he last received while serving on a court of this state shall be considered the amount he was receiving from the State of Texas at the time of retirement. Any person who retires under the provisions of this Act and complies with the requirements of this Act shall, during the remainder of his lifetime, receive retirement pay from the State of Texas in monthly installments, in a sum equal to five per cent (5%) of the amount he was receiving from the State of Texas at the time of retirement, multiplied by the number of years of service on one or more of the courts of the state; provided, however, that the amount of retirement pay shall in no case be more than fifty per cent (50%) of the total amount being received by him annually from the State of Texas at the time of retirement; and such amount of retirement pay shall not be reduced during the lifetime of the judge coming under the provisions of this Act. As amended Acts 1963, 58th Leg., p. 1134, ch. 439, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

2. CITY PENSIONS

Art. 6243b. Firemen and policemen pension fund in cities of more than 275,000 and less than 300,000

Section 1. In all incorporated cities and towns containing more than two hundred seventy-five thousand (275,000) inhabitants and less than three hundred thousand (300,000) inhabitants, according to the last preceding Federal Census, having a fully or partially paid fire department, the mayor, two (2) aldermen or commissioners, two (2) citizens of said city or town to be designated by the mayor, the chief of police, the chief of the fire department and their successors, one (1) policeman other than the chief or assistant chief, to be elected by members of the policemen's pension fund, one (1) fireman other than the chief or assistant chief, to be elected by members of the firemen's pension fund, composing nine (9) members, five (5) of which shall be a quorum, shall constitute a board of trustees of the Firemen, Policemen and Fire Alarm Operators Pension Fund, to provide for the disbursement of the same and to designate the beneficiaries thereof. The two policemen and the

two firemen named above shall be elected to a term of four (4) years. The board shall be known as the Board of Firemen, Policemen, and Fire Alarm Operators Pension Fund, Trustees of _____, Texas. The Board shall hold its office until the next General Election in such city for municipal officers. Said board shall organize by choosing one member as Chairman and by appointing a secretary. Such board shall have charge of and administer said fund and shall order payments therefrom in pursuance of the provisions of this law. It shall report annually to the governing body of such city or town the condition of the said fund and the receipts and disbursements on account of the same with a complete list of beneficiaries of said fund and the amounts paid them. As amended Acts 1963, 58th Leg., p. 367, ch. 136, § 1.

Participation in fund; wage deductions

Sec. 2. Each fully paid fireman, policeman and fire alarm operator and other persons herein designated as members of either of said departments, in the employment of such city or town, must participate in said fund, and said city or town shall be authorized to deduct a sum of not less than one per cent (1%) nor in excess of five per cent (5%) of his wages from each month to form a part of the fund known as the Firemen, Policemen and Fire Alarm Operators Pension Fund, except in times of national emergency said persons as are employed during such time shall not be required to participate in said fund. The amount to be deducted from the wages of those named above who must participate in the fund is to be determined by the board of trustees as provided for in Section 1, Chapter 101 of the General and Special Laws of the 43rd Legislature, First Called Session, within the minimum and maximum deductions herein provided. As amended Acts 1963, 58th Leg., p. 367, ch. 136, § 1.

Sec. 3. There shall be deducted for such fund from the wages of each fireman, policeman and fire alarm operator, and other persons herein designated as members of either of said departments a sum of not less than one per cent (1%) nor in excess of five per cent (5%) of the wages earned by such employees, the amount of wages so deducted to be determined as provided in Section 2, Chapter 101 of the General and Special Laws of the 43rd Legislature, First Called Session, as amended by this Act. Any donations made to such fund and rewards received by any member of either of said departments, and all funds received from any source for such fund shall be deposited in like manner to the credit of such fund. As amended Acts 1963, 58th Leg., p. 367, ch. 136, § 1.

Membership in pension fund; eligibility

Sec. 6. (a) Any person who has been duly appointed and enrolled in the fire department, police department, or fire alarm operators department of any city having the number of inhabitants provided for in Section 1, as amended, to a position or office expressly established and classified as a position or office in either of said departments by ordinance of the City Council or other governing body of such city, and who, after such due appointment and enrollment has served the probationary period of such position or office, if any, shall automatically become a member of the pension fund of such city upon expiration of ninety (90) days from date such city comes within the provisions of this Act, provided such person at the time of such appointment was not less than eighteen (18) years of age and not more than thirty-five (35) years of age. In all instances where a person is already a member of and contributor to such pension fund, he shall retain and be entitled to all rights and

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privileges due him by virtue of having been such a member and contributor.

(b) Any person not a member of the pension fund when this Act becomes effective, who thereafter is duly appointed and enrolled as a fireman, policeman, or fire alarm operator of such city in a position or office expressly established and classified as a position or office in either of said departments by ordinance of the City Council or other governing body of such city, and who, after due appointment and enrollment serves the probationary period in such position or office, if any, shall automatically become a member of the pension system as a condition of his employment provided such person at the time of such appointment was not less than eighteen (18) years of age and not more than thirty-five (35) years of age. As amended Acts 1963, 58th Leg., p. 367, ch. 136, § 1.

Retirement pensions

Sec. 7. Whenever any member of said departments who shall have contributed a portion of his salary, as provided herein, shall have served twenty-five (25) years or more in either of said departments and shall have attained the age of fifty (50) years, he shall be entitled to be retired from said service upon application, and shall be entitled to be paid from said fund a monthly pension of one-half ($\frac{1}{2}$) of the salary received by him at the time of his retirement. As amended Acts 1963, 58th Leg., p. 367, ch. 136, § 1.

Members of firemen, policemen and fire alarm operators department

Sec. 13. All firemen, policemen and fire alarm operators and superintendents in the employ of any such city or town, who have participated, as provided for other members of such departments, are hereby declared to be members of the Firemen, Policemen, and Fire Alarm Operators department of such city or town, and they and their beneficiaries shall have the same rights and privileges as are herein granted to other members of such departments of such cities. As amended Acts 1963, 58th Leg., p. 367, ch. 136, § 1.

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 law, except on a majority vote of the voters of such city or town, and where such funds have been voted on as provided by law, said city or town shall contribute such amount. As amended Acts 1963, 58th Leg., p. 367, ch. 136, § 1.

Operation of fund notwithstanding census change

Sec. 18. Any city which has heretofore established a firemen and policemen fund in accordance with Article 6243B of Vernon's Texas Civil Statutes or as amended, shall continue to operate such fund under the provisions of this Act. It is further provided that the fact that any future Federal Census may result in said city being above or below the population bracket herein specified shall not affect the validity of such fund and such fund shall continue to be operated pursuant hereto. As amended Acts 1963, 58th Leg., p. 367, ch. 136, § 1.

Emergency. Effective May 10, 1963.

Art. 6243d—1. Policemen's relief and retirement fund

Federal old-age and survivor's insurance system, definition of "employment" as excluding service in policemen's position, see art. 695g, § 1(b).

Art. 6243e. Firemen's Relief Pension Fund**Contributions and membership; cities of less than 185,000**

Sec. 10A. (a) In all cities having fully paid firemen where Firemen's Relief and Retirement Funds now exist or shall be created under the provisions of this Act and having a population of less than one hundred and eighty-five thousand (185,000) inhabitants according to the preceding Federal Census, the city or the governing body of the city shall deduct an amount equal to no less than three per cent (3%) nor more than six per cent (6%) from the monthly salary or compensation of each participating member fireman.

(b) The amount of the monthly deductions which shall be contributed to the Firemen's Relief and Retirement Fund shall be determined by majority vote of the Fund members.

(c) Any city coming within the provisions set out in this Article shall also contribute and appropriate monthly to the Fund an amount equal to the total sum paid into the Fund by salary deductions of the members.

(d) Money deducted from salaries or compensation as provided by this Section and the payments and contributions provided by this Section shall become and form a part of the Firemen's Relief and Retirement Fund of the city or town in which the contributing fireman serves.

(e) In addition to the amount which the city is required to contribute, the governing body of a city may authorize the city to make an additional annual contribution to its Firemen's Relief and Retirement Fund in whatever amount the governing body of the city may fix.

(f) In the event a fireman terminates, resigns, or leaves the active full-time service of the fire department for any reason other than those for which pension benefits will accrue, and before he receives his twenty (20) year pension certificate not having completed twenty (20) years of active full-time service in the city's fire department, he shall receive an amount equal to the sum total of his monthly payments made while a participating member in the Firemen's Relief and Retirement Fund. However, no lump sum payment shall be made without prior approval by majority vote of the Board of Trustees. The adoption of a program to make lump sum payments to terminated firemen in the amount of their total monthly contributions, subject to approval by the Board of Trustees, shall be effective upon a majority vote of the participating members of the Firemen's Relief and Retirement Fund.

(g) However, a fireman who terminates his full-time service from the fire department having completed twenty (20) years of active full-time service and having received his twenty (20) year pension certificate shall make the following election:

(1) To receive an amount equal to the sum total of his monthly payments made while a participating member in the Firemen's Relief and Retirement Fund, or,

(2) To continue to make his monthly payments into the Firemen's Relief and Retirement Fund until he attains the age of fifty-five (55) years at which time he shall be entitled to receive and participate in all pension benefits which would have accrued to him as an active full-time employee.

(h) Each person who shall hereafter become a fireman in any city which has a Firemen's Relief and Retirement Fund to which he is eligible for membership, shall become a member of such Fund as a condition of

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his appointment, and shall by acceptance of such position agree to make and shall make contributions required under this Act of members of such Fund, and shall participate in the benefits of membership in such Fund as provided in this Act; provided, however, that no person shall be eligible to membership in any such Fund who is more than thirty-five (35) years of age at the time he first enters service as a fireman; and provided, further, that any such person who enters service as a fireman may be denied or excused from membership in the Fund if the Board of Trustees of the Fund determines that such person is not of sound health. The applicant shall pay the cost of any physical examination required in such instance by the Board of Trustees.

(i) Each person who is an active member of a Firemen's Relief and Retirement Fund previously organized and existing under the laws of this State at the effective date of this amendment shall continue as a member of such Fund and he shall retain and be allowed credit for all service to which he was entitled in the Fund of which he was a member immediately prior to the effective date of this amendment. As amended Acts 1963, 58th Leg., p. 79, ch. 50, § 1.

Cities of 185,000 but less than 195,000; contributions to fund

Sec. 10D. (a) Any city having a population of more than one hundred and eighty-five thousand (185,000) inhabitants but less than one hundred and ninety-five thousand (195,000) inhabitants, according to the last preceding Federal Census, which has fully paid firemen and a Firemen's Relief and Retirement Fund has been or shall be created under the provisions of this Act, shall contribute and appropriate each month to such fund an amount equal to seven and one-half per centum (7½%) of the monthly payroll of the fire department of the city, provided that each full-time fireman shall pay into such pension fund seven and one-half per centum (7½%) of his monthly salary. In addition to the amount which the city is required to contribute, the governing body of a city may authorize the city to make an additional annual contribution to its Firemen's Relief and Retirement Fund in whatever amount the governing body of the city may fix.

(b) Money deducted from salaries or compensation as provided by this Section and the payments and contributions provided by this Section shall become and form a part of the Firemen's Relief and Retirement Fund of the city in which the contributing fireman serves.

(c) Each person who shall hereafter become a fireman in any city which has a Firemen's Relief and Retirement Fund to which he is eligible for membership, shall become a member of such fund as a condition of his appointment, and shall by acceptance of such position agree to make and shall make contributions required under this Act of members of such fund, and shall participate in the benefits of membership in such fund as provided in this Act; provided, however, that no person shall be eligible to membership in any such fund who is more than thirty-five (35) years of age at the time he first enters service as a fireman; and provided further, that any such person who enters service as a fireman may be denied or excused from membership in the fund if the board of trustees of the fund determines that such person is not of sound health. The applicant shall pay the cost of any physical examination required in such instance by the board of trustees.

(d) Each person who is an active member of a Firemen's Relief and Retirement Fund previously organized and existing under the laws of this state at the effective date of this amendment shall continue as a

member of such fund and he shall retain and be allowed credit for all service to which he was entitled in the fund of which he was a member immediately prior to the effective date of this amendment.

(e) In the event a fireman terminates, resigns, or leaves the active full-time service of the fire department for any reason other than those for which pension benefits will accrue, and before he receives his twenty (20) year pension certificate not having completed twenty (20) years of active full-time service in the city's fire department, he shall receive an amount equal to the sum total of his monthly payments made while a participating member in the Firemen's Relief and Retirement Fund.

(f) However, a fireman who terminates his full-time service from the fire department having completed twenty (20) years of active full-time service and having received his twenty (20) year pension certificate shall make the following election:

(1) To receive an amount equal to the sum total of his monthly payments made while a participating member in the Firemen's Relief and Retirement Fund; or

(2) To continue to make his monthly payments into the Firemen's Relief and Retirement Fund until he attains the age of fifty-five (55) years at which time he shall be entitled to receive and participate in all pension benefits which would have accrued to him as an active full-time employee.

(g) The provisions stated herein shall apply to all active full-time members of the fire department at the time of the final passage of this Act, and those persons who shall become members of the fire department at any time in the future.

(h) Whenever, in the opinion and judgment of said board of trustees, there is on hand in the Firemen's Relief and Retirement Fund of any city under this Act a surplus over and above a reasonable and safe amount to take care of the current demands upon such fund, such surplus, or so much of it as in the judgment of said board is deemed safe, may be invested in federal, state, county or municipal bonds, or in shares or share accounts of savings and loan associations, providing such shares or share accounts are insured under and by the Federal Savings and Loan Insurance Corporation, or in such securities in which the State Permanent School Fund of Texas or the Permanent University Fund of The University of Texas may be invested under present laws. The interest and dividends from such investments shall be deposited into said fund and become a part of it.

(i) The mayor shall appoint an investment advisory committee consisting of not less than three (3) nor more than five (5) qualified persons to be selected from the personnel of the banks of the city. Such appointees shall be experienced in the handling of such securities and investment matters and shall serve for a two (2) year term. The purpose of this committee shall be to advise and make recommendations on investment procedure and policy, and to review the investments made by the board. From such reviews and observations the committee shall make an annual report to the Board of Pension Fund Trustees of such city within ninety (90) days after the end of each calendar year. Added Acts 1963, 58th Leg., p. 25, ch. 19, § 1.

Effective 90 days after May 24, 1963, date
of adjournment.

Cities of 800,000 or more; monthly deductions from salaries; contributions and appropriations; membership; service credits

Sec. 10E. (a) All cities having fully paid firemen where Firemen's Relief and Retirement Funds have been or shall be created under the provisions of this Act and having a population of eight hundred thousand (800,000) or more according to the last preceding Federal Census, the governing body of such city shall monthly deduct a sum equal to seven and one half per centum ($7\frac{1}{2}\%$) from the salary or compensation of each fireman participating in such Fund.

(b) Any such city having a population of eight hundred thousand (800,000) or more according to the last preceding Federal Census shall contribute and appropriate monthly to such Fund an amount equal to one and one half ($1\frac{1}{2}$) the total sum paid into such Fund by salary deductions of the members, and each such city shall also contribute and appropriate monthly to such Fund, for each person who holds a twenty-year pension certificate and who is not engaged in active service as a fireman and who has not retired, an amount equal to one and one half ($1\frac{1}{2}$) the total sum paid into such Fund by such member each month. Contributions and appropriations shall be made to such Fund at the same time the city makes its contributions for the participating members of the Fund.

(c) Money deducted from salaries or compensation as provided by this Section and the payments and contributions provided by this Section shall become and form a part of the Firemen's Relief and Retirement Fund of the city or town in which the contributing fireman serves.

(d) Each person who shall hereafter become a fireman in any such city which has a Firemen's Relief and Retirement Fund in which he is eligible for membership, shall become a member of such Fund as a condition of his appointment, and shall by acceptance of such position agree to make and shall make contributions required under this Act of members of such Fund, and shall participate in the benefits of membership in such Fund as provided in this Act; provided, however, that no person shall be eligible to membership in any such Fund who is more than thirty-five (35) years of age at the time he first enters service as a fireman; and provided, further, that any such person who enters service as a fireman may be denied or excused from membership in the Fund if the Board of Trustees of the Fund determines that such person is not of sound health. The applicant shall pay the cost of any physical examination required in such instance by the Board of Trustees.

(e) Each person who is an active member of such Firemen's Relief and Retirement Fund previously organized and existing under the laws of this State at the effective date of this Amendment shall continue as a member of such Fund and he shall retain and be allowed credit for all service to which he was entitled in the Fund of which he was a member immediately prior to the effective date of this Amendment.

(f) If any member's employment by the city, as an employee of the fire department, is terminated for any reason other than those qualifying said employee for a pension, neither the employee nor his beneficiary or estate shall receive any amount paid by him into the pension fund or any interest his contributions may have accrued. Added Acts 1963, 58th Leg., p. 463, ch. 164, § 1.

Investment of surplus; cities of 800,000 or less

Sec. 23A. In cities having a population of eight hundred thousand (800,000) or less according to the last preceding Federal Census, and only in such cities, whenever, in the opinion and judgment of said Board of Trustees, there is on hand in the Firemen's Relief and Retirement Fund for the 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 in shares or share accounts of savings and loan associations, where such shares or share accounts are insured under and by virtue of the Federal Savings and Loan Insurance Corporation, and in such securities and subject to the same restrictions in which the State Permanent School Fund of Texas or the Permanent University Fund of The University of Texas may be invested under present laws, and the interest or dividends therefrom and thereon shall be deposited into said Fund as a part thereof. As amended Acts 1963, 58th Leg., p. 79, ch. 50, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Investment of surplus; cities of 800,000 or more

Sec. 23A-1. In cities having a population of eight hundred thousand (800,000) or more according to the last preceding Federal Census, and only in such cities, whenever, in the opinion and judgment of said Board of Trustees, there is on hand in the 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 in shares or share accounts of savings and loan associations, where such shares or share accounts are insured under and by virtue of the Federal Savings and Loan Insurance Corporation, and in such securities in which the State Permanent School Fund of Texas or the Permanent University Fund of The University of Texas may be invested under present laws, and may also invest in notes and other evidence of debt secured by mortgages insured and/or guaranteed by the Federal Housing Administration under the provisions of the National Housing Act, and the interest or dividends therefrom and thereon shall be deposited into said Fund as a part thereof. Added Acts 1963, 58th Leg., p. 463, ch. 164, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Investment advisory committee

Sec. 23B. In all cities falling within the provisions of this Act, the mayor shall appoint an Investment Advisory Committee consisting of not less than three (3) nor more than five (5) qualified persons to be selected from the personnel of the banks of such city. Such persons, so appointed, shall be experienced in the handling of securities and investment matters and shall serve for a two (2) year term. This Committee shall review the investments of the Fund as made by the Pension Board and shall make recommendations on the investment procedures and policies from time to time. This Committee shall also make an annual report to the Board of Pension Fund Trustees of such city within ninety (90) days after the end

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of each calendar year. As amended Acts 1963, 58th Leg., p. 79, ch. 50, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Employment of actuary; cities of 800,000 or more

Sec. 23C. In cities having a population of eight hundred thousand (800,000) or more according to the last preceding Federal Census, and only in such cities, the Board of Trustees of a Firemen's Relief and Retirement Fund coming under the provisions of this Act may employ an actuary no more than once every three (3) years and pay his compensation out of the pension fund. Added Acts 1963, 58th Leg., p. 463, ch. 164, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Employment of actuary; cities of 800,000 or less

Sec. 23D. In cities having a population of eight hundred thousand (800,000) or less according to the last preceding Federal Census, and only in such cities, the Board of Trustees of a Firemen's Relief and Retirement Fund coming under the provisions of this Act may employ an actuary no more than once every three (3) years and pay his compensation out of the Pension Fund. Added Acts 1963, 58th Leg., p. 79, ch. 50, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Section 5 of the Amendatory Act of 1963 was a severability provision. Section 6 of the Act provided: "This Act does not ap-

ply to litigation pending as of the effective date of this Act."

Firemen's pensions in cities of 350,000 to 400,000, see art. 6243e-2.

Art. 6243e-2. Firemen's pensions in cities of 350,000 to 400,000

Section 1. Any city having a population of three hundred fifty thousand (350,000) or more, but less than four hundred thousand (400,000) according to the last preceding Federal Census and having a full time regularly organized fire department and having an established municipal employees retirement plan shall be authorized to provide for the retirement of its firemen by appropriate ordinance under the terms and provisions of such employees retirement plan if the benefits provided by such employees retirement plan are substantially as advantageous as the benefits provided by Chapter 125, Acts of the 45th Legislature, as amended (Article 6243e, Vernon's Civil Statutes of the State of Texas).

Upon adoption of an appropriate ordinance, all of the assets of the Firemen's Relief and Retirement Fund shall be transferred to the Municipal Employees' Retirement Fund and thereafter those persons serving as active firemen duly enrolled or contributing to the fund shall be subject to all provisions of such Municipal Employees' Retirement Fund and the Municipal Employees' Retirement Fund of such city shall assume all liabilities and obligations of the Firemen's Relief and Retirement Fund at the date of transfer. Thereafter such Municipal Employees' Retirement Fund as combined shall not be subject to the provisions of Chapter 125, Acts of the 45th Legislature, as amended (Article 6243e, Vernon's Civil Statutes of the State of Texas).

Provided, however, nothing contained in this Act shall be held or construed to affect or impair any act done or right vested or accrued under Article 6243e, V.A.C.S., pending in any proceeding, suit, or prosecution had or commenced in any cause thereunder, be it before the courts, the Firemen's Pension Commissioner, or the Board of Firemen's Relief and

Retirement Fund Trustees; but every 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 Article 6243e, V.A.C.S., were applicable thereto and any and all liabilities existing under this proviso, be they vested, accrued or contingent, shall be the obligations of the Municipal Employees' Retirement Fund. Acts 1963, 58th Leg., p. 54, ch. 36.

Emergency. Effective April 1, 1963.

Art. 6243f. Firemen and Policemen's Pension Fund in cities of 550,000 to 650,000

Board of Trustees

Sec. 1. In all incorporated cities containing more than five hundred, fifty thousand (550,000) inhabitants and less than six hundred, fifty thousand (650,000) inhabitants according to the last preceding Federal Census or any future Federal Census and having a fully paid Fire and Police Department, there is created hereby (and continued if heretofore created) a Firemen and Policemen's Pension Fund; provided, however, that once such pension system becomes operative in any city, any right or privilege accruing to any such member thereunder shall be a vested right and the same shall not be denied or abridged thereafter through any change in population of any such city taking such city out of the population (as herein prescribed) and said pension system shall continue to operate and function regardless of whether or not any future population exceeds or falls below said population. To govern said Firemen and Policemen's Pension Fund, there is hereby created a Board of Trustees 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 are elected, and to be elected to this Board by majority vote of the Board of Aldermen, Council or Board of Commissioners on which they serve; two (2) active firemen below the rank of Fire Chief, to be selected by the majority vote of the members of the Fire Department by secret ballot, 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 Police Chief, to be selected by the majority vote of the members of the Police Department, by secret ballot, one (1) for a term of two (2) years, and the other for a term of four (4) years. All members from the Fire and Police Departments shall be elected by the contributors to the Fund, and shall serve until their successors are elected and qualified and their successors shall be elected for a term of four (4) years. These seven (7) trustees and their successors shall constitute the Board of Trustees of the Firemen and Policemen's Pension Fund, to provide for the disbursement of same, and to designate the beneficiaries thereof, and to have complete and independent control over said Pension Fund. Said Board shall be known as the Firemen and Policemen's Pension Fund Board of Trustees of _____, Texas. As amended Acts 1963, 58th Leg., p. 869, ch. 334, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Contributions to Fund, Deductions from Wages

Sec. 4. There shall be deducted for such Fund from the wages of each fireman and policeman in the employment of such city a sum equal to five per cent (5%) of the base pay of a private. Such city shall pay into said Fund, and at the same time, a matching amount equal to the sum total of all such deductions. Provided, however, the board of trustees can raise the amount of deductions not to exceed seven and one half per cent

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

(7½%) of the base pay of a private member of either of said departments, the additional contribution of the city to be likewise increased at the same time to the same amount. Any donations made to said Fund and all funds received from such source for such Fund shall be deposited in like manner in such Fund. The city's matching amount referred to above shall be in addition to the net revenues from the parking meter monies referred to in Section 16 of this Act to the extent such revenue shall equal in amount the amount of the net revenues therefrom for the calendar year 1958, but such city shall receive credit on such matching amount for each calendar year to the extent such net proceeds shall exceed in amount the amount of the net proceeds from such meters for the calendar year 1958, if it should exceed such amount in any such calendar year. In the event such parking meter revenues for any calendar year is less than the 1958 amount of such parking meter revenues, it is expressly understood that such sum of revenues shall accrue to the Fund in addition to the matching amount contributed by the city mentioned in this Act, to the full extent necessary, such matching amount shall be paid out of the General Fund, and such city shall make provisions therefor. Beginning August 1, 1963, such city shall, over and above all of the foregoing contributions, contribute an additional sum of Thirty Thousand Dollars (\$30,000) each month to the Fund, and increase said monthly sum by Five Thousand Dollars (\$5,000) per month for the fiscal year beginning August 1, 1964, and increasing said sum at the rate of Five Thousand Dollars (\$5,000) per month per year for each fiscal year thereafter until such additional contribution by the city shall reach a level of Forty-five Thousand Dollars (\$45,000) per month, whereupon said city shall continue to contribute the said sum of Forty-five Thousand Dollars (\$45,000) per month each and every month thereafter until such time as the Board notifies the city that the Fund is actuarially sound. It shall be the duty of the Board to notify the city immediately, when, by periodic actuarial surveys of the actuarial soundness of the Fund, the Fund becomes actuarially sound. As amended Acts 1963, 58th Leg., p. 869, ch. 334, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Reserved 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 funds 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. The funds may be invested in the following manner:

1. A sum not to exceed ten per cent (10%) may be deposited with a Federal Credit Union restricted to employees of the city.
2. A sum not to exceed fifteen per cent (15%) may be invested in savings and loan associations which are insured by the Federal Saving & Loan Insurance Corporation, but the amount invested in any one association shall not exceed Ten Thousand Dollars (\$10,000), insured by such corporation under the law.
3. A sum not to exceed fifty per cent (50%) of the principal value of the Fund may be invested in shares of open end investment companies, closed end investment companies, common or preferred stocks in any solvent dividend-paying corporation at the time of purchase incorporated under the laws of the State, or any other state in the United States, which has not defaulted in the payment of any of its obligations for a period of

five (5) years immediately preceding the date of investment, provided such funds may not be invested in the stock of any oil, manufacturing or mercantile corporation, organized under the laws of this State, or any other state of the United States, unless said corporation has at the time of investment a net worth of not less than Two Million, Five Hundred Thousand Dollars (\$2,500,000).

Of this percentage a sum not to exceed fifty per cent (50%) thereof may be invested in shares of capital stock of national banks having been established at least ten (10) years and having a capitalization of at least Five Million Dollars (\$5,000,000), and/or shares of capital stock of life insurance companies, and/or fire and casualty insurance companies having been established at least twenty-five (25) years and having a capitalization of at least Five Million Dollars (\$5,000,000).

4. A sum not to exceed fifty per cent (50%) may be invested in first mortgage bonds or debentures of any solvent dividend-paying corporation which at the time of purchase was incorporated under the laws of this State or any other state in the United States and which has not defaulted in the payment of any debt within five (5) years next preceding such investment.

5. The entire Fund or any portion thereof, may be invested in United States Treasury Notes, United States Treasury Bonds, Bonds of the State of Texas, or bonds of any county or municipality of the State of Texas; or bonds or debentures, payment of which is guaranteed by an agency of the United States Government, such as Federal Intermediate Credit Bank Debentures; Federal Land Bank Bonds; Federal Home Loan Bank Notes; Banks for Cooperative Debentures; Federal National Mortgage Association Notes and any additional bonds which may be in the future issued, secured by an agency of the United States Government. The Board shall have the power to make these investments for the sole benefit of this Reserve Retirement 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. As amended Acts 1963, 58th Leg., p. 869, ch. 334, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Group II Fund, Members, Benefits, etc.

Sec. 25. All members of the Fund, or probationers subsequently becoming members of the Fund, as of the effective date of this Act shall be known as and constitute Group I Fund members to which all existing provisions of this Statute shall apply, except as set forth herein to be applicable only to Group II members and the Group II Fund. On and after the effective date of this Act there shall be established in any city coming under the provisions of this Statute a separate Group II Fund for all duly appointed and enrolled members of the Fire and Police Departments whose probationary period of service began after such effective date (and who successfully complete such probationary period) and such members of said Departments will be Group II members of said Group II Fund under the provisions hereinafter set out:

(1) All existing provisions of this Statute, codified as Article 6243f, Vernon's Annotated Texas Statutes, shall fully apply to such Group II Fund and to said Group II members except as herein specifically changed as to such Fund and members, or as changed by necessary implication.

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

(2) Payroll deductions from Group II members shall in each case be an amount equal to seven and one half per cent (7½%) of a base figure of Three Hundred and Eighty Dollars (\$380) per month per Group II member and city shall exactly match the sum of all such deductions as made.

(3) No provision of this Statute respecting parking meter money applies to Group II Fund or its members. Donations must be made specifically to Group II Fund or otherwise shall be placed in Group I Fund.

(4) Retirement benefits for Group II members shall be as follows, stated in percentages of the base figure of Three Hundred and Eighty Dollars (\$380) per month and payable monthly:

(a) Twenty (20) years service and less than twenty-five (25) years service: Twenty-nine per cent (29%).

(b) Twenty-five (25) years service and less than thirty (30) years service: thirty-six per cent (36%).

(c) Thirty (30) years service, or more: forty-four per cent (44%).

(d) Disability retirement (without regard to length of service): thirty-six per cent (36%).

(5) Benefits for beneficiaries of Group II members shall be, in the case of widows, or widows and children, as follows:

(a) Where retired member served more than twenty (20) and less than twenty-five (25) years: twenty-nine per cent (29%).

(b) Where retired member served more than twenty-five (25) years: thirty-six per cent (36%).

(c) Where member dies on active duty or is retired for disability, without regard to length of service: thirty-six per cent (36%). In the case of child or children alone such pension shall be eighteen per cent (18%) except that in the event the member retired with less than twenty-five (25) years service it shall be fourteen per cent (14%). Dependent parents shall receive and divide twenty-four per cent (24%) and a dependent parent shall receive eighteen per cent (18%).

(6) All monies paid into the Group II Fund through payroll deductions, contributions, donations, and any other source, shall be deposited into a Fund to be designated as the "Firemen and Policemen's Pension Fund—Group II," and to be administered by the Board in the same manner and under the same provisions of this Statute as the Group I Fund, except as specifically changed by this Act. The Treasurer shall establish and strictly maintain an entirely separate system of accounts for the Group II Fund and the monies of the two Funds shall be strictly segregated at all times for all purposes, including investments.

(7) Disability pensions of Group II members may be changed in the manner set out under the provisions of Section 15(a) of this Act, except that the figure of Three Hundred and Eighty Dollars (\$380) per month shall be used as the base figure in making such computations and the maximum award shall be thirty-six per cent (36%) of such figure. Acts 1941, 47th Leg., p. 134, ch. 105, § 25 added Acts 1963, 58th Leg., p. 869, ch. 334, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

The preamble to Acts 1963, 58th Leg., p. 869, ch. 334 provided:

"WHEREAS, An actuarial survey of the Pension Fund of the San Antonio Fire and Police Departments by the firm of Rudd & Wisdom, Actuaries, Austin, reveals

an actuarial deficit in such Fund of approximately Twenty Million Dollars (\$20,000,000); and

"WHEREAS, The stabilization and re-funding of said Fund is beneficial to the future financial security of the members of

said departments and of their beneficiaries and to the morale, recruitment and efficiency thereof; and

"WHEREAS, Said Fund cannot be refunded until it is first stabilized and the continuing increase in such deficit halted, but such stabilization should not be at the expense of benefits promised present members at the time of their employment on the one hand or at prohibitive future cost to city taxpayers on the other hand; and

"WHEREAS, The actuarial study shows that by continuing present benefits for present members without any reduction thereof (assuming the continuation of the national economy at more or less present levels), that the actuarial deficit can be eliminated in approximately fifty (50) years if (1) a new fund is established for future members on an actuarially sound basis, and (2) if approximately Forty-five Thousand Dollars (\$45,000) per month is paid into the present Fund for such period of years with no decrease (or increase) in either present payroll deductions, matching amounts out of the city treasury, or parking meter money, taking into account also a three per cent (3%) return on investment of the reserves; and

"WHEREAS, By choice of the men of both departments, committees of twenty (20) firemen and twenty (20) policemen each were set up almost two years ago to study this problem and recommend a solution thereof to the city, to the members, and to the Legislature; and

"WHEREAS, Such committees worked diligently on said problem, acquiring information on various firemen and policemen's pension funds across the entire nation, and have studied the actuarial report, and have conferred with the Board of Trustees of this Fund, with representatives of the city council, and with the legal advisor of the Board; and

"WHEREAS, Said committees formulated a basic plan calling for the creation of a new Group II Fund for future members which is the principal subject matter of this Act, in consideration of the payment of extra money into the present Fund by the city at the Forty-five Thousand Dollar (\$45,000) per month level with all other present factors (benefits, deductions, matching funds, etc.) to be kept at present levels for present members; and

"WHEREAS, The Board of Trustees of the Fund officially called this problem and such proposed solution to the attention of the city council by letter signed by the chairman thereof dated July 31, 1962; and

"WHEREAS, The city council by a resolution passed and approved on November 14, 1962, accepted this basic solution and, depending upon the contingency of the creation by this legislation of a Group II Fund for future members on an actuarially sound basis, committed the city to an additional contribution to the present Fund of at least Thirty Thousand Dollars (\$30,000) per month beginning the next fiscal

year, with an increase of at least Five Thousand Dollars (\$5,000) per month therein in the monthly amount for the next fiscal year thereafter and increasing at the same rate until a level of Forty-five Thousand Dollars (\$45,000) per month in added funds is reached, and to be maintained at that rate, for as long as necessary to completely refund the present Fund; and

"WHEREAS, This plan, after full discussion, was submitted to the entire Fund membership of the Fire Department for referendum vote by secret ballot by voting machine on December 17, 1962, and was approved by them by a vote of 329 to 109; and

"WHEREAS, This plan, after full discussion, was submitted to the entire Fund membership of the Police Department for referendum vote by secret ballot by voting machine on December 21, 1962, and was approved by them by a vote of 415 to 81; and

"WHEREAS, The benefits for Group II members included in this Act are substantial, and compare favorably with most fire and police pension plans in this Country, and the members thereof will have accepted employment voluntarily knowing the amount and scope of such benefits, and will enjoy a pension fund that is sound and secure from its beginning, and established on a basis which will insure the continuation of such fully liquid condition; and

"WHEREAS, Future actuarial surveys and experience may eventually reveal the feasibility of an equilization of benefits and provisions between the two groups, dependent first upon the refunding of the Group I Fund; and

"WHEREAS, The actuarial deficit threatening the present Fund has accumulated over a period of many years and has reached such proportions that it must be refunded on an installment basis over an extended period of time because the refunding of same on any other basis would place an impossible tax burden on the entire population of the city, which would imperil the indefinite continuation of the Fund on any basis, or at least require curtailment of benefits; and

"WHEREAS, Delay in halting the increase in this deficit and in postponing the beginning of its refunding will make it harder to achieve such objectives at all; and

"WHEREAS, Such legislation is subject to biennial review by the Legislature as circumstances and experience should require; and

"WHEREAS, Population changes in the 1960 Federal Census make it advisable to reclassify the application of Article 6243f to insure uninterrupted continuation of pension rights thereunder; and

"WHEREAS, Technical changes in Section 17 of Article 6243f have been recommended by the financial advisors to the Board of Trustees of the Fund for greater flexibility in the making of investments of monies in the Reserve Retirement Fund; now, therefore,"

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

Art. 6243g—1. Police Officers' Pension System in cities of 900,000 or more

Creation of fund

Section 1. For the purposes of this Act, there is hereby created in this State a special fund to be known and designated as the Police Officers' Pension Fund in each city in this State having a population of nine hundred thousand (900,000) inhabitants or more according to the last preceding or any future Federal Census, unless any such city now has in operation a police, firemen and fire alarm operators pension system organized under another law.

Definitions

Sec. 2. The following words and phrases when used in this Act are defined as follows; to wit:

(a) "Pension System" means the retirement, allowance, disability and pension system for employees of any police department coming within the provisions of this Act.

(b) "Member" means any and all employees in the police department provided for and becoming members thereof.

(c) "Pension Board" or "Board" means the Pension Board of the Pension System created under the Act for the purpose of administering the Pension System.

(d) "Service" means the services and work performed by a person employed in the police department.

(e) "Pension" means payments for life to the police department member out of the Pension Fund provided herein and becoming eligible for such payments.

(f) "Separation from Service" means cessation of work for the city in the police department, whether caused by death, discharge or resignation, or transfer to any other department of the city.

(g) The use of the masculine gender includes the feminine gender.

Membership

Sec. 3. (a) Any person who holds a classified position in the Police Department of such city shall automatically become a member of the Police Officers' Pension System upon the effective date of this Act.

(b) Any person who hereafter becomes an employee, and is appointed to a classified position in the Police Department shall automatically become a member of the Police Pension System as a condition of his employment.

(c) Employees of such police department who may not become members of the Pension System shall include part time, seasonal or other temporary employees.

Pension board

Sec. 4. (a) There is hereby created a Pension Board of the Pension System, in which Board there is hereby vested the general administration, management, and responsibility for the proper and effective operation of the Pension System. The Board shall be organized immediately after its members have qualified and taken the oath of office and shall serve without compensation.

(b) The Pension Board shall be composed of seven (7) members as follows:

(1) The administrative head of the city, or his authorized representative.

(2) Three (3) employees of the police department having membership in the Pension System and elected by the members of such police department and system.

(3) Two (2) legally qualified taxpaying voters of such city, residents thereof for the preceding three (3) years, to be chosen by the elected members of the Pension Board, being neither employees nor officers of such city.

(4) The city treasurer of the city, or the person discharging the duties of the city treasurer.

The terms of office of the elected members of the Pension Board shall be three (3) years, provided, however, that at the first election after the effective date of this Act, one such elected member shall be elected to a term of one year; one such elected member shall be elected to a term of two (2) years; and one such elected member shall be elected to a term of three (3) years. Thereafter, at an annual election called by the Chief of Police, and held during the month of December, one member shall be elected to a three (3) year term.

The term of office of appointed members of the Board shall be two (2) years, such appointments shall be made by the elected members of the Board and shall commence on the first day of January after the effective day of this Act.

The term of office of the Board members statutorily provided for, shall be and continue so long as such member holds the position defined in this Act for automatic members of such Board.

(c) Each member of the Pension Board within ten (10) days after his appointment or election shall take an oath of office that he will diligently and honestly administer the affairs of the Pension System and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this law.

(d) The Board shall elect from its membership, annually, a chairman, vice-chairman and secretary. Pursuant to the powers granted under the charter of such city, the mayor or administrative head of the city shall appoint one or more employees whose positions and salaries shall be fixed by the governing body of the city and who, acting under the direction of the mayor or administrative head of the city and treasurer or director of the treasury shall keep all of the records of and perform all of the clerical services for the Pension System. The salaries of such employees shall be paid by the city.

(e) Each member of the Board shall be entitled to one vote in the Board, four (4) concurring votes shall be necessary for a decision by the members at any meeting of the Board and four (4) members shall constitute a quorum.

(f) A meeting of the Pension Board may be called at any time by the chairman, secretary, or any four (4) members of the Board.

(g) Notice shall be given to all members of the Pension Board, unless waived in writing, as to any proposed meeting, by the depositing of a written notice in the United States mail at least forty-eight (48) hours before

such meeting, properly addressed to each member. If a meeting is had, however, at which all of the members of the Board attend, no notice shall be necessary.

(h) No moneys shall be paid out of the Pension Fund except by warrant, check, or draft signed by the treasurer and countersigned by the chairman or secretary, upon an order by the Pension Board duly entered in the minutes.

(i) The Pension Board shall determine the prior service to be credited to each present employee of the police department who becomes a member of the Pension System. The Board shall rely upon the personnel records of the city in determining such prior-service credits. After obtaining the necessary information the Board shall furnish each member of the Pension System with a certificate showing all prior-service credits authorized and credited to such member. Such member may, within one year from the date of issuance or modification of such certificate, request the Board to modify or change his prior-service certificate, otherwise such certificate shall be final and conclusive for retirement purposes as to such service.

Treasurer

Sec. 5. The city treasurer or director of the treasury is hereby designated as the treasurer of the Pension Fund for the Police Officers' Pension System, and his official bond to the city shall operate to cover his position as treasurer of such Pension Fund and his sureties shall be liable in connection with the treasurer's actions pertaining to such Fund as fully as they are liable under the term of the bond for the other actions and conduct of the treasurer. All moneys of every kind and character collected or to be collected for the Fund shall be paid over to the treasurer and shall be administered and paid out only in accordance with the provisions of this Act.

Contributions by members

Sec. 6. Commencing with the first day of the month following the expiration of thirty (30) days after the passage of this Act or after the date of publication of the final census report which shows that the city has attained a population of nine hundred thousand (900,000) or more inhabitants, each member of the Pension Fund shall pay into such Fund each month, the sum of five per cent (5%) of the base salary provided for the classified position in the police department held by the member. Such payments shall be deducted by the city from the salary of each member monthly and paid to the treasurer of the Pension Fund. Should an emergency arise and the Pension Board deem it necessary for the welfare of the Pension System, the Board may raise the monthly payments of each member of the Pension System to an amount not to exceed seven and one half per cent (7½%) of the base salary provided for the classified position in the police department held by the member.

Monthly payment by city

Sec. 7. In addition to the payments in the next preceding Section, the city shall pay monthly into the Pension Fund, from the general or other appropriate fund of the city, an amount equal to seven and one half per cent (7½%) of the payroll of the police department, but in no event shall the city be required to pay into such Pension Fund any amount in excess of seven and one half per cent (7½%) of the payroll of the police department, as the city's contribution to the Pension Fund.

Reduction of benefits

Sec. 8. In the event the Pension Fund becomes seriously depleted, in the opinion of the Pension Board, the Pension Board may proportionately and temporarily reduce the benefits of all pensioners and beneficiaries, but such reductions shall thereafter be paid to such pensioners and beneficiaries as and when the Fund is, in the opinion of the Pension Board, sufficiently re-established to do so.

Investment of surplus

Sec. 9. Whenever in the opinion of the said Pension Board, there is on hand in said Pension Fund a surplus over and above a reasonably safe amount to take care of current demands upon such funds, such surplus, or so much thereof as in the judgment of the said Pension Board is deemed proper, may be invested in bonds or other interest-bearing obligations and securities of the United States, the State of Texas, or any county, city or other political subdivision of the State of Texas, or in first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, as amended from time to time and in such corporation bonds, preferred stocks and common stocks as the Pension Board may deem to be proper investments for said funds. The funds may also be invested in a sum not to exceed ten per cent (10%) with a Federal credit union restricted to employees of the city. In making each and all such investments, such Pension Board shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital; provided, however, that not more than fifty per cent (50%) of said funds shall be invested at any given time in corporate stocks and bonds, nor shall more than one per cent (1%) of said funds be invested in securities issued by any one (1) corporation, nor more than five per cent (5%) of the voting stock of any one (1) corporation be owned; and provided further, that stocks and bonds eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase, and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors.

Investment review committee

Sec. 9a. The Mayor shall appoint an Investment Review Committee, consisting of three (3) qualified persons to be selected from the Trust Departments of the banks of the City of Houston, Texas. Such persons shall be experienced in securities and investment matters. The Investment Review Committee shall be appointed for a two-year term. Such Committee shall (a) review the investments of the Fund to determine their suitability and desirability for the Fund; (b) review the investment procedures and policies pursued by the Board in the administration of the Fund; and (c) submit an annual report of its findings and recommendations to the Pension Board of the Houston Police Officer's Pension System and the Mayor of the city within ninety (90) days after the end of each calendar year.

Transfer of existing pension fund

Sec. 10. Immediately upon passage of this Act, the city pension officer or anyone discharging the duties of the pension officer shall transfer the pro rata share of any existing pension fund to the Police Officers' Pension Fund.

Retirement; amount of pension

Sec. 11. (a) From and after the passage of this Act, any member of such Pension System who has been in the service of the city police department for the period of twenty (20) years shall be entitled to a retirement pension of an amount equal to thirty per cent (30%) of the base salary provided for the classified position in the police department held by the member, provided that if the member has not held the same classified position for five (5) years prior to the date of retirement, the retirement pension shall be based on the average monthly base salary of the member for the five (5) years preceding retirement.

(b) From and after the passage of this Act, any member of such Pension System who has been in the service of the city police department for a period of years in excess of twenty (20) years, and who elects to retire from the service of the police department, shall in addition to the thirty per cent (30%) of his base salary be paid an additional sum equal to one per cent (1%) of his base salary per month for each year of service in the police department in excess of twenty (20) years. For example, a member with twenty-five (25) years service would be entitled to thirty-five per cent (35%); a member with thirty (30) years, forty per cent (40%); etc.

(c) It shall be compulsory for any member to retire from the service of the police department upon attaining the age of sixty-five (65) years. Failure of any member of the Pension System to comply with this provision shall deprive the member and his dependents of any of the benefits provided for herein. If at the time of retirement because of maximum age requirements, the member has completed less than twenty (20) years of service, his monthly retirement pension shall be prorated on the basis of one and one half per cent (1½%) of the base salary of the position of the member per month for each year of service completed.

(d) Upon a member's completion of twenty (20) years of service in the police department, the Pension Board shall issue to the member a certificate showing that he is entitled to the retirement pension. Thereafter when such member retires, whether such retirement be voluntary or involuntary, such monthly payment shall begin forthwith and continue for the remainder of the member's life. However, when such member has completed twenty (20) years service in the police department and if the physicians of the Pension Board agree that the member is physically fit to continue his active duties in the police department, they may so certify, and the member may continue in the service of the city police department until the member attains the age of sixty-five (65) years, at which time his retirement pension shall be computed as hereinbefore stated.

(e) No member shall be required to make any payments into the Pension Fund after the member has received the aforesaid certificate and the member has retired from the service of the police department.

Disability benefits

Sec. 12. Any member of the police department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by, the performance of his duty shall, upon presentation to the Pension Board of proof of permanent disability, be retired and shall receive a retirement allowance equal to the percentage of his disability. Such allowance shall be computed on the same basis as a service retirement with regard to length of service; for example, if the member is fifty per cent (50%) disabled, he shall receive one half ($\frac{1}{2}$) the retirement allowance granted a member as a service retirement for the period of service he has completed, provided that in case of a disability retirement before the member has completed twenty (20) years of service, he shall receive an allowance based on the minimum allowed for twenty (20) years service. Such allowance as is granted by the Pension Board shall be paid the member for the remainder of his life or so long as he remains incapacitated. When any member has been retired for permanent, total or partial disability, he shall be subject at all times to re-examination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member refuses to submit himself to any such examination, the Pension Board may, within its discretion, order the payments stopped. If a member who has been retired under the provisions of this Section should thereafter recover, so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for the city in the police department, and such member is reinstated or tendered reinstatement to the position he held at the time of his retirement, then the Pension Board shall order such payment stopped. No person shall be retired either for total or partial disability unless he files with the Pension Board an application for allowance, at which time the Pension Board shall have him examined by no fewer than three (3) physicians, to be chosen by the Pension Board and who are to make their report to the Pension Board.

Rights of survivors

Sec. 13. (a) If any member of the police department who has been retired on allowance because of length of service or disability thereafter dies from any cause whatsoever, or dies from any cause whatsoever after he has become entitled to an allowance or pension certificate, or if while in service any member dies from any cause growing out of or in consequence of the performance of his duty, and leaves surviving a widow, a child or children under the age of eighteen (18) years or a dependent parent, the Board shall order paid a monthly allowance as follows: (a) to the widow, so long as she remains a widow, a sum equal to the allowance which was granted to the member at the time of retirement or which would have been granted to the member upon service or disability pension based on his length of service in the police department; (b) to the guardian of each child, the sum of Fifteen Dollars (\$15) a month until the child reaches the age of eighteen (18) years or marries; (c) to the dependent parent, only in case no widow is entitled to allowance, the sum the widow would have received, to be paid to but one (1) parent and such parent to be determined by the Pension Board; and (d) in the event the widow dies after being entitled to her allowance, 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 Twenty-five Dollars (\$25) per month for each dependent child, provided

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that such minor child under eighteen (18) years of age is unmarried. Allowance or benefits payable to any minor child shall cease when such child becomes eighteen (18) years of age or marries.

(b) If any member of the Pension System has not completed ten (10) years or more years of service in the Police Department and is killed or dies from any cause growing out of or in consequence of any act which is clearly not in the actual performance of his official duty, his surviving widow and/or dependent child or children shall be refunded any contributions which the member made to the Pension System, provided that only contributions made by the member himself shall be refunded.

Computation of length of service

Sec. 14. In computing the length of service required for retirement pension, continuous service shall be required; provided, however, that in case of interruption of less than two (2) years, credit shall be given for previous service. If out of service more than two (2) years, no service prior to the interruption shall be counted, other than as provided in Section 22.

Termination of employment; re-employment

Sec. 15. When any member of the Pension System leaves the employment of the police department other than as provided for in Section 12 or Section 22, either voluntarily or involuntarily, before becoming eligible for a retirement or disability pension, he shall cease to be a member of the Pension System. No member leaving the employment of the police department and the membership in the Pension System shall be refunded any money paid by the member into the System as contributions or any of the moneys paid into the System by any source except as stated in Section 13(b) and in Section 22. If such person is thereafter re-employed by the city police department, he shall thereupon be reinstated as a member of such Pension System provided he is in good physical and mental condition as evidenced by a written certificate executed under oath by a duly licensed and practicing physician or physicians in the city, satisfactory to the Pension Board. Prior service of such member with the city police department shall not be counted toward his retirement pension unless such member returns to the service within two (2) years from his separation therefrom and makes within six (6) months after his re-employment by the city in the police department written application to the Pension Board for reinstatement in the Pension System.

Transfer from another department

Sec. 16. No prior credit shall be allowed for service to any person who transfers from some other department in the city to the police department. For example, if one is transferred from some other department of the city to the city police department, such person's service will be computed from the day he enters the city police department.

Donations

Sec. 17. The Police Officers' Pension System may accept gifts and donations, and such gifts and donations shall be added to the Pension Fund for the use of such system.

Conviction of felony

Sec. 18. Whenever any person who has been granted an allowance hereunder is convicted of a felony, then the Board shall order the allowance so granted or allowed such person discontinued, and in lieu thereof

shall order to be paid to his wife 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.

Legal advice

Sec. 19. The city attorney of the city shall handle all legal matters for the Pension System which are referred to him by the Pension Board or city without additional compensation therefor. The Pension Board may, however, if it deems necessary, employ outside advice to the exclusion of, or to assist, the city attorney, and pay reasonable compensation therefor out of the Pension Fund.

Exemption of benefits from execution, etc.; assignment

Sec. 20. No portion of the Pension Fund, either before or after its order of disbursement by the Pension Board, and no amounts due or to become due any beneficiary or pensioner under this Act, shall be held, seized, taken, subjected to, detained, or levied upon by virtue of any execution, attachment, garnishment, injunction, or other writ, and no order or decree, and no process or proceedings whatsoever, shall issue out of or by any court of this State for the payment or satisfaction, in whole or in part, out of the Pension Fund, of any debt, damage, claim, demand, or judgment against any members, pensioners, dependents, or any person whomsoever, nor shall such pension funds or any part thereof or any claim thereto, be directly or indirectly assigned or transferred. Any attempt to transfer or assign the same or any part thereof or any claim thereto shall be void. The Pension Fund shall be sacredly held, kept, and disbursed for the purposes provided in this Act, and for no other purpose whatsoever.

Actuary

Sec. 21. Such Pension Board may employ an actuary and pay his compensation therefor out of the Pension Fund no more than once every ten (10) years.

Members in military service

Sec. 22. Members of the Pension System engaged in active military service shall not be required to make the monthly payments into the Pension Fund provided for in this Act, nor shall they lose any previous years service with the city caused by such military service. Such military service shall count as continuous service in the police department provided that when the member is discharged from the military service, he shall return to the city police department under provisions of the city charter, and his military service shall not exceed the national emergency for that period of military service. The city, however, shall be required to make its regular monthly payments into the Pension Fund on each member while he is engaged in the military service. In the event of death of a member of the Pension System, either directly or indirectly caused from such military service, his widow or dependent parent or other dependents shall be entitled to receive a refund as stated in Section 13(b).

Actions for funds misapplied, etc.

Sec. 23. The Pension Board shall have the power and authority to recover by civil action from any offending party, or from his bondsman, if any, any moneys paid out or obtained from the Pension Fund through fraud, misrepresentation, theft, embezzlement, or misapplication, and may institute, conduct and maintain such action in the name of the Board for the use and benefit of such funds.

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

Former employees on retirement when act enacted

Sec. 24. The former employees of any such police department now on retirement shall hereafter be paid a monthly pension out of the Pension Fund provided for herein in the same amount and under the same conditions as are provided herein for present and future employees of the Police Department becoming members of the Pension System. Re-enacted and amended Acts 1963, 58th Leg., p. 1262, ch. 485.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6243h. Texas Municipal Retirement System

Method of financing

Sec. V.

7. Endowment Fund:

(c) After the requirements of the interest reserve account and of the general reserves account of this Fund have been satisfied, the Board may transfer any balance of excess earnings remaining in the Interest Fund at the end of a calendar year to a special account in the Endowment Fund to be denominated the "distributive benefits account." If in the judgment of the Board the amount to the credit of the distributive benefit account at the end of the year is sufficient to warrant such action, the Board may by resolution:

(1) authorize the distribution and payment of all or part of said amount as a distributive benefit to the persons who were annuitants of the System on the last day of said calendar year in the ratio that the monthly benefit of each such annuitant bears to the total of all annuity payments made by the System for the final month of such year;

(2) authorize the distribution and application of all or part of said amount as supplemental interest earned by, and to be paid and credited to the respective individual accounts of members in the Employees Saving Fund, and to the respective accounts of participating municipalities in the Municipality Current Service Accumulation Fund, in the same manner that current interest was allowed to such accounts and in proportion to the current interest allowed such accounts for such calendar year. As amended Acts 1963, 58th Leg., p. 194, ch. 107, § 1.

Emergency. Effective May 7, 1963.

Creditable service

Sec. VI.

8. (1) Notwithstanding any provision of this Section VI or any other Section of this Article 6243h to the contrary, a person employed by two (2) or more participating municipalities shall be able to cumulate credits for the total "creditable service" rendered by such employee to all such municipalities if the following conditions are met:

a. Such employee must have accumulated at least twenty-two (22) years of "creditable service," as that term is defined herein, with the participating municipality for which such employee was employed when he first became a member of the Texas Municipal Retirement System, which accumulation shall have been earned through continuous employment with such municipality without break in service.

b. Such employee must have been employed by each such participating municipality on the effective date of participation of each such municipality.

c. As of the date of eligibility for retirement, as herein defined, such employee shall have been employed by a participating municipality.

d. There shall have been an interruption of continuous, cumulative employment by such employee with such municipalities wherein such cumulative credit for "creditable service" was earned of less than nine (9) months.

e. The total credits for "creditable service" with all municipalities wherein such credits were earned shall equal or exceed twenty-eight (28) years as of the date of retirement.

f. Such employee shall have earned a credit for "creditable service" from each such participating municipality of at least five (5) years.

If the foregoing conditions are met, the employee shall be able to cumulate his credits for "creditable service" rendered to two (2) or more municipalities in determining eligibility for retirement benefits, payments of benefits to such employee, and methods of financing the payment of such benefits. The Board shall adopt rules and regulations which shall divide equitably the cost attributable to the credits and benefits herein provided for between or among the municipalities wherein such credits were earned.

(2) The provisions of this subsection 8 of Section VI shall be applied retroactively in favor of all persons eligible for benefits under the provisions of said Article 6243h, as herein amended, from and after January 1, 1959. Persons who would have become eligible for benefits under the provisions of this Act prior to the enactment hereof and subsequent to January 1, 1959, shall make application therefor within 180 days from the date hereof and not later.

(3) The benefits inuring to employees under this subsection shall apply whether or not such employee has withdrawn his accumulated deposits or such deposits have been automatically withdrawn by lapse of time; provided that the Board shall adopt rules and regulations providing for the return of such withdrawals to the Fund or suitable adjustment of benefits to take into account such withdrawals. Added Acts 1963, 58th Leg., p. 611, ch. 223, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Administration

Sec. VIII.

6. The assets of the Texas Municipal Retirement System, in excess of the amount of cash required for current operations as determined by the Board, shall be invested and reinvested in the following types of securities:

(a) Interest-bearing bonds or other evidences of indebtedness of the United States or of the State of Texas, or of any county, school district, city or other municipal corporation within the State of Texas.

(b) Interest-bearing bonds or other evidences of indebtedness of any authority or agency of the United States, or which are guaranteed as to the payment of principal and interest by the United States or by any authority or agency of the United States.

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

In addition to the above listed securities, the Board may invest not exceeding thirty-three and one-third per cent ($33\frac{1}{3}\%$) of the total of the assets of the System in corporate bonds, preferred stocks and common stocks of companies incorporated within the United States, which have paid dividends for ten (10) consecutive years or longer immediately prior to the date of purchase of such securities and which, except for bank and insurance company stocks, are listed upon an exchange registered with the Federal Securities and Exchange Commission or its successors; and provided further that not more than one per cent (1%) of the assets of the System shall be invested in securities issued by any one corporation, nor shall more than five per cent (5%) of the voting stock of any one corporation be owned by the System. In making each and all such investments the Board shall exercise the judgment and care under the circumstances which men of prudence, discretion and intelligence exercise in the management of their own affairs, taking into consideration not only the probable income derivable from such securities but as well the probable safety of the capital investment.

The Board shall have full power to sell, assign, exchange, or trade and transfer any of the securities in which the funds of the System at any time may be invested, and to use or reinvest the proceeds as, in the Board's judgment, the needs of the System require. As amended Acts 1963, 58th Leg., p. 194, ch. 107, § 2.

Emergency. Effective May 7, 1963.

Art. 6243—2. Purpose

Denial of right to work because of age,
see art. 6252—14.

TITLE 110A—PUBLIC OFFICERS

Art. 6252—10a. Emergency Interim Public Office Succession Act [New].	Art. 6252—14. Denial of right to work because of age [New].
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Art. 6252—10a. Emergency Interim Public Office Succession Act

Title

Section 1. This Act shall be known and may be cited as the "Emergency Interim Public Office Succession Act."

Definitions

Sec. 2. Unless otherwise clearly required by the context, as used in this Act:

(a) "Unavailable" means either that a vacancy in office exists and there is no deputy authorized to exercise and discharge the duties of the office, or that the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of an office because of a vacancy, and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

(b) "Emergency interim successor" means a person designated pursuant to this Act, in the event the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the Constitution and laws of this State, or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(c) "Office" includes all State offices, the powers and duties of which are defined by the Constitution and laws of this State, except those of the Governor, Members of the Judiciary and Members of the Legislature, and all local offices, the powers and duties of which are defined by the Constitution and laws of this State or by charters and ordinances.

(d) "Attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, missiles, shell fire, or atomic, radiological, chemical, bacteriological or biological means or other weapons or processes.

State officers; designation of emergency interim successors; number; powers and duties

Sec. 3. All State officers, subject to such regulations as the Governor or other official authorized under the Constitution or other authority to exercise the powers and discharge the duties of the office of Governor may issue, shall, upon the taking effect of this Act, in addition to any deputy authorized pursuant to law to exercise all of the powers and discharge the duties of the office, designate by title emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this Act to insure their current status. The officer shall designate a sufficient number of such emergency interim successors so that there will be not less than three (3) nor more than seven (7) such deputies or emergency interim successors or any combination thereof at any time. In the event that any

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

State officer is unavailable following an attack, and in the event his deputy, if any, is also unavailable, the said powers of his office shall be exercised and said duties of his office shall be discharged by his designated emergency interim successors in the order specified. Such emergency interim successors shall exercise said powers and discharge said duties only until such time as the Governor, under the Constitution or authority other than this Act, or other official authorized under the Constitution or laws of this State to exercise the powers and discharge the duties of the office of Governor may, where a vacancy exists, appoint a successor to fill the vacancy; or until a successor is otherwise appointed or elected and qualified as provided by law; or until the officer or his deputy or a preceding named emergency interim successor becomes available to exercise or resume the exercise of the powers and discharge the duties of his office.

Local officers; resolutions or ordinances designating emergency interim successors

Sec. 4. With respect to local offices for which the legislative bodies of cities, towns, counties and other units of government may enact resolutions or ordinances relative to the manner in which vacancies will be filled or temporary appointments to office made, such legislative bodies are hereby authorized to enact resolutions or ordinances providing for emergency interim successors to offices of the aforementioned governmental units. Such resolutions and ordinances shall not be inconsistent with the provisions of this Act.

Officers of political subdivisions; designation of emergency interim successors; number; powers and duties

Sec. 5. The provisions of this Section shall be applicable to officers of political subdivisions including, but not limited to, cities, towns, and counties, as well as fire, power and drainage districts not included in Section 4. Such officers, subject to such regulations as the executive head or heads of the political subdivision may issue, shall, upon the taking effect of this Act, designate by title, if feasible, or by named person, emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this Act to insure their current status. The officer shall designate a sufficient number of persons so that there will be not less than three (3) nor more than seven (7) deputies or emergency interim successors, or any combination thereof, at any time. In the event that any officer of any political subdivision or his deputy provided for pursuant to this Law is unavailable, the powers of the office shall be exercised and duties shall be discharged by his designated emergency interim successor in the order specified. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist shall be filled in accordance with the Constitution or laws of this State, or until the officer or his deputy or a preceding emergency interim successor again becomes available to exercise the powers and discharge the duties of his office.

Oath; bond

Sec. 6. At the time of their designation, emergency interim successors shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. A person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds shall be required to comply with provisions of the law relative to taking office, including the bond and oath.

Exercise of powers and discharge of duties after attack; termination of authority

Sec. 7. Officials authorized to act, pursuant to this Act, as emergency interim successors are empowered to exercise the powers and discharge the duties of an office as herein authorized only after an attack upon the United States, as herein defined, has occurred. The Legislature, by concurrent resolution, may at any time terminate the authority of said interim successors to exercise the powers and discharge the duties of office as herein provided.

Service in designated capacity

Sec. 8. Until such time as the persons designated as emergency interim successors are authorized to exercise the powers and discharge the duties of an office in accordance with this Act, including Section 7 hereof, said persons shall serve in their designated capacities at the pleasure of the designating authority and may be removed or replaced by said designating authority at any time, with or without cause.

Disputes

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 9. Any dispute concerning a question of fact arising under this Act with respect to an office in the executive branch of the State Government, except a dispute of fact relative to the office of Governor, shall be adjudicated by the Governor or other official authorized under the Constitution and laws of this State to exercise the powers and discharge the duties of Governor, and his decision shall be final. Acts 1963, 58th Leg., p. 407, ch. 139.

Continuity of state and local governmental operations, see Const. art. 3, § 62.

Title of Act:

An Act to provide for temporary emergency interim succession to State and local public offices, except those of Governor, the Judiciary and Members of the Legislature.

in order to assure continuity of government in periods of emergency caused by attack upon the United States; providing for severability; and declaring an emergency. Acts 1963, 58th Leg., p. 407, ch. 139.

Art. 6252—11. Position Classification Act of 1961

Salaries of state officers and employees for biennium, see art. 6813b.

Art. 6252—13. Administrative rules and regulations; adoption; filing

Official notice of federal decennial census, see art. 29d.

Art. 6252—14. Denial of right to work because of age

Section 1. It is hereby declared to be the policy of the State of Texas that no person shall be denied the right to work, to earn a living, and to support himself and his family solely because of age.

Sec. 2. No agency, board, commission, department, or institution of the government of the State of Texas, nor any political subdivision of the State of Texas, shall establish a maximum age under sixty-five (65) years nor a minimum age over twenty-one (21) years for employment, nor shall any person who is a citizen of this State be denied employment by any such agency, board, commission, department or institution or any political subdivision of the State of Texas solely because of age; provided, how-

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

ever, nothing in this Act shall be construed to prevent the imposition of minimum and maximum age restrictions for law enforcement peace officers or for fire-fighters; provided, further, that the provisions of this Act shall not apply to institutions of higher education with established retirement programs. Acts 1963, 58th Leg., p. 857, ch. 327.

Effective 90 days after May 24, 1963, date of adjournment.

Child labor, see Vernon's Ann.P.C. arts. 1573 to 1578b.

Cities, towns and villages, civil service, see art. 1269m.

Discrimination against persons seeking employment, see art. 5197.

Hours of labor, see art. 5165.

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Old age assistance, see art. 6243—2 et seq.

State and county pensions, see art. 6204 et seq.

Texas council of migrant labor, see art. 5221e.

TEXAS PROBATE CODE

CHAPTER I—GENERAL PROVISIONS

§ 3. Definitions and Use of Terms

Abolition of rule in Shelley's case, the rule forbidding a remainder to the grantor's heirs and the doctrine of the worthier title, see Vernon's Ann.Civ.St. art. 1291a.

CHAPTER II—DESCENT AND DISTRIBUTION

§ 37. Passage of Title upon Intestacy and Under a Will

Abolition of rule in Shelley's case, the rule forbidding a remainder to the grantor's heirs and the doctrine of the worthier title, see Vernon's Ann.Civ.St. art. 1291a.

CHAPTER III—DETERMINATION OF HEIRSHIP

§ 48. Actions to Declare Heirships, When and Where They May be Instituted

Abolition of rule in Shelley's case, the rule forbidding a remainder to the grantor's heirs and the doctrine of the worthier title, see Vernon's Ann.Civ.St. art. 1291a.

CHAPTER IV—EXECUTION AND REVOCATION OF WILLS

§ 57. Who May Execute a Will

Abolition of rule in Shelley's case, the rule forbidding a remainder to the grantor's heirs and the doctrine of the worthier title, see Vernon's Ann.Civ.St. art. 1291a.

§ 66. Posthumous Children

Abolition of rule in Shelley's case, the rule forbidding a remainder to the grantor's heirs and the doctrine of the worthier title, see Vernon's Ann.Civ.St. art. 1291a.

§ 68. Prior Death of Legatee

Abolition of rule in Shelley's case, the rule forbidding a remainder to the grantor's heirs and the doctrine of the worthier title, see Vernon's Ann.Civ.St. art. 1291a.

CHAPTER VII—EXECUTORS, ADMINISTRATORS, AND GUARDIANS

§ 236. Sums Allowable for Education and Maintenance of Ward

(a) Expenditures Directed by the Court

The Court may direct the guardian of the person to expend, for the education and maintenance of his ward, a sum in excess of the income of the ward's estate; otherwise, the guardian shall not be allowed, for the education and maintenance of the ward, more than the net income of the estate. When different persons have the guardianship of the person and estate of a ward, the guardian of the estate shall pay to the guardian of the person such sums as shall be fixed by the Court, at times specified

by the Court, for the education and maintenance of the ward, and, on failure to do so, shall be compelled to make such payment by order of the Court, after being duly cited.

(b) Court Approval of Previous Expenditures

When a guardian has in good faith expended funds from the corpus of his ward's estate for support and maintenance for emergency purposes, and when it is not convenient or possible to first secure approval of the Court, if the proof is clear and convincing that such expenditures were reasonable and proper and such that the Court would have granted authority to make the expenditures out of the corpus, and that the ward received the benefits of such expenditures, the judge, in the exercise of his sound discretion, may approve such expenditures in the same manner as if such expenditures were made by the guardian out of the income from the ward's estate. Provided, however, such expenditures may not exceed the sum of One Thousand Dollars (\$1,000). As amended Acts 1963, 58th Leg., p. 116, ch. 67, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

**CHAPTER VIII—PROCEEDINGS DURING ADMINISTRATION
AND GUARDIANSHIP**

**PART 12. FINAL SETTLEMENT, AC-
COUNTING, AND DISCHARGE**

Sec.

404A. Payment of funeral expenses and other debts [New].

**PART 12. FINAL SETTLEMENT, ACCOUNTING,
AND DISCHARGE**

§ 404A. Payment of funeral expenses and other debts

Notwithstanding the provisions of the preceding Section, before the guardianship of the persons and the estates of wards shall be closed upon the death of any ward, the guardian subject to the approval of the Court may make all funeral arrangements, pay for such funeral expenses out of the estate of the deceased ward and pay all other debts out of such estate. Acts 1955, 54th Leg., p. 88, ch. 55, § 404A, added Acts 1963, 58th Leg., p. 1009, ch. 416, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 112—RAILROADS**CHAPTER ELEVEN—RAILROAD COMMISSION OF TEXAS**

Art.
6519b. Operating Fund [New].

Art. 6519b. Operating Fund**Creation of fund; transfer of moneys**

Section 1. All moneys now on deposit in the State Treasury to the credit of the Motor Carrier Fund, the Oil and Gas Enforcement Fund, the Gas Utilities Fund, and the Liquefied Petroleum Gas Fund, together with all moneys due and owing to any and all of said Funds, shall be transferred, deposited, and consolidated into a single fund, in the State Treasury, to be known as the Railroad Commission Operating Fund but separate revenue accounts shall be provided for each of the sources enumerated in this Section. From the effective date of this Act each of the enumerated funds is abolished, and its balances are to be transferred and credited to the Railroad Commission Operating Fund.

Deposits; revenue accounts

Sec. 2. All moneys collected or received by the Railroad Commission after the effective date of this Act, from any source from which moneys are required to be deposited in the State Treasury to the credit of any of the Funds named in Section 1 of this Act, shall be deposited in the State Treasury to the credit of the Railroad Commission Operating Fund and to the credit of the respective revenue account within this Fund.

Uses

Sec. 3. The Railroad Commission Operating Fund shall be used for the aggregate purposes for which the several funds enumerated in Section 1 and abolished by this Act have heretofore been used.

Cost records; unused moneys

Sec. 4. The Railroad Commission shall keep such cost records as will permit the proper allocation and use of these moneys. All unused amounts not reappropriated to the Railroad Commission for use in a succeeding fiscal period, from these sources, shall be deposited to the credit of the General Revenue Fund at the end of each fiscal period.

Moneys from sale of property

Sec. 5. All moneys derived from the sale of property purchased out of any of the Funds referred to in Section 1 of this Act, and out of the Railroad Commission Operating Fund, after cost of advertising for sale has been deducted, shall be deposited in the State Treasury to the credit of the Railroad Commission Operating Fund.

Expenditures

Sec. 6. All expenditures made by the Railroad Commission out of the Railroad Commission Operating Fund shall be made in accordance with the procedures regularly prescribed for expenditures from the State Treasury.

Conflicting laws; purposes of abolished funds

Sec. 7. All laws or parts of laws in conflict with this Act are hereby repealed only to the extent that they require the creation of separate funds. It is expressly provided that all of the purposes for which the several funds enumerated in Section 1 shall be used, shall remain in effect and be applied in the aggregate to the Railroad Commission Operating Fund.

Effective date

Sec. 8. This Act shall be effective on and after September 1, 1963. Acts 1963, 58th Leg., p. 495, ch. 180.

Effective Sept. 1, 1963.

Liquefied petroleum gas code, see art. 6066d.

Motor carriers, regulation by railroad commission, see art. 911b.

Motor bus ticket brokers, regulation, see art. 911d.

Tax on crude petroleum, see art. 6032.

TITLE 113A—REAL ESTATE DEALERS**Art. 6573a. Real estate dealers licenses****Examination**

Sec. 10. Competency as referred to in Section 9 of this Act shall be established by an examination prepared by or under the supervision of the Commission. The examination shall be given at such times and at such places within the State as the Commission shall prescribe, and said examinations shall be held no less frequently than every sixty (60) days. The examination shall be of scope sufficient in the judgment of the Commission to determine that a person is competent to act as a real estate broker or salesman in such manner so as to protect the interest of the public. The examination for a salesman license shall be less exacting and less stringent than the examination for a broker license. The Commission shall furnish each applicant with study material upon which his examination shall be based. An applicant who has failed to pass the examination twice shall be ineligible for a further application and examination until six (6) months after the second failure. Insofar as is necessary for the administration of this Act, the Commission is authorized to establish educational programs and to procure and furnish personnel, facilities, and materials for instruction of persons desiring to become brokers or salesmen or to improve their proficiency as brokers or salesmen, provided that the Commission shall establish such programs on a self-liquidating basis from fees and charges therefor established by the Commission, and to inspect and accredit educational programs or courses of study in real estate and to establish standards of accreditation for such programs conducted in the State of Texas.

Each applicant for an examination for a broker license shall have first served one (1) year actively as a licensed real estate salesman in this State or shall furnish to the Commission a certificate that he has successfully completed thirty (30) class-room hours of instruction in basic real estate courses approved by the Commission; provided, however, that such shall not be required of any applicant for examination who at the time of making application is duly licensed as a real estate broker by any other State of the United States and in good standing with the real estate licensing agency of such State. As amended Acts 1963, 58th Leg., p. 850, ch. 325, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Revocation and suspension of license

Sec. 16. The Commission may, upon its own motion, and shall, upon the verified complaint in writing of any persons, provided such complaint, or such complaint together with evidence, documentary or otherwise, presented in connection therewith shall provide reasonable cause, investigate the actions and records of any real estate broker or real estate salesman and shall have the power to suspend or revoke any license issued under the provisions of this Act at any time when it has been determined that:

- (a) the licensee has been convicted of a felony, or
- (b) the license has been obtained by false or fraudulent representation, or

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

(c) the licensee, while performing any of the acts constituting a Broker or Salesman as defined by this Act, has been guilty of:

- (1) Knowingly making a substantial misrepresentation; or
- (2) Making any false promise with intent to influence, persuade or induce; or
- (3) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents, salesmen, advertising, or otherwise; or
- (4) Failure to make clear to all parties to a transaction for which party he is acting, or receiving compensation from more than one party, except with the full knowledge and consent of all parties; or
- (5) Failing within a reasonable time to account for or remit moneys coming into his possession which belong to others, or commingling of moneys belonging to others with his own funds; or
- (6) Paying commission or fees to or dividing commission or fees with anyone not licensed as a real estate broker or salesman in this State or any other state, or attorney-at-law in this State or any other state; or
- (7) Using any misleading or untruthful advertising including the use of any trade name or insignia of membership of any real estate organization of which he is not a member; or
- (8) Accepting, receiving, or charging any undisclosed commission, rebate or direct profit on expenditures made for a principal; or
- (9) Soliciting, selling or offering for sale real property under a scheme or program that constitutes a lottery or deceptive practice; or
- (10) Acting in the dual capacity of broker and undisclosed principal in any transaction; or
- (11) Guaranteeing, authorizing or permitting any person to guarantee future profits which may result from a resale of real property; or
- (12) Placing a sign on any property offering it for sale or rent without the consent of the owner or his authorized agent; or
- (13) Inducing or attempting to induce any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu thereof a new contract; or
- (14) Negotiating or attempting to negotiate the sale, exchange, lease, or rental of any real property with an owner or lessor, knowing that such owner or lessor had a written outstanding contract, granting exclusive agency in connection with such property, with another real estate broker; or
- (15) Offering real property for sale or for lease without the knowledge and consent of the owner or his authorized agent, or on any terms other than those authorized by the owner or his authorized agent; or
- (16) Publishing, or causing to be published, any advertisement including but not limited to advertising by newspaper, radio, television, or display which is misleading, or which is likely to deceive the public, or which in any manner whatsoever tends to create a misleading impression, or which fails to carry plainly the name of the broker causing the advertisement to be published; or
- (17) Having knowingly withheld from or inserted in a statement of account or invoice, any statement that made it inaccurate in any material particular; or

(18) Publishing or circulating any unjustified or unwarranted threats of legal proceedings, or other actions; or

(19) Establishing an association, by employment or otherwise, with an unlicensed person who is expected or required to act as a real estate licensee, or aiding or abetting or conspiring with any person to circumvent the requirements of this Act; or

(20) Failing or refusing upon demand to furnish copies of any document pertaining to any transaction dealing with real estate to any person whose signature is affixed thereto; or

(21) Failing to advise a purchaser in writing before the closing of the transaction concerned, that said purchaser should either have the abstract, covering real estate which is the subject of the contract, examined by an attorney of the purchaser's own selection; or be furnished with or obtain a policy of title insurance; or

(22) Conduct which constitutes dishonest dealings, bad faith, untrustworthiness or incompetency; or

(23) Disregarding or violating any provision of this Act; or

(24) Failing within a reasonable time to deposit moneys, received as escrow agent in a real estate transaction, either in trust with a title company authorized to do business in this State, or in a custodial, trust, or escrow account maintained for such purpose in a banking institution authorized to do business in this State; or

(25) Disbursing moneys deposited in a custodial, trust, or escrow account, in accordance with Subsection (24) above, before the transaction concerned has been consummated or finally terminated otherwise; or

(26) Failing or refusing upon demand to produce any document, book, or record in his possession concerning any real estate transaction transacted by him for inspection by the Real Estate Commission or its authorized personnel or representative; or

(27) Failing without just cause to surrender unto the rightful owner, upon demand, any document or instrument coming into his possession.

(d) A final money judgment has been rendered against such licensee resulting from contractual obligations of a licensee incurred in the pursuit of his business, and such judgment remains unsatisfied for a period of more than six (6) months after becoming final.

This Section of this Act shall not be construed to relieve any person or company from civil liability or from criminal prosecution under this Act or under the laws of this State.

Upon complaint by affidavit of any credible person that any licensee under the provisions of this Act has been guilty of, or has committed any of the acts mentioned in this Section, the Commission shall, after proper investigation and verification of information contained in the complaint, notify the licensee of the filing of such complaint and the date a hearing will be had thereon. After hearing, the Commission shall enter such order as to it appears proper under the facts presented. Either party may appeal from that decision to any District Court of the County where such licensee resides, where a trial shall be had in accordance with the Texas Rules of Civil Procedure. As amended Acts 1963, 58th Leg., p. 850, ch. 325, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

License prerequisite to suit for compensation

Sec. 19. No person or company may bring or maintain any action for the collection of compensation for the performance in this State of any of the acts set out in subdivision (1) of Section 4 hereof without alleging and proving that the person or company performing the brokerage services was a duly licensed real estate broker or salesman at the time the alleged services were commenced; or was a duly licensed attorney-at-law as exempt from the provisions of this Act by Section 6. As amended Acts 1963, 58th Leg., p. 850, ch. 325, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Judicial review

Sec. 21. (a) Any real estate broker, or real estate salesman, or any person having a justiciable interest, who is aggrieved by any decision of the Commission may file within thirty (30) days thereafter in the District Court of the county in which he resides, or in the District Court in the county where his principal place of business is situated, a petition against the Commission officially as defendant, alleging therein in brief detail the action and decision complained of and for an order directing the Commission to license or reinstate the applicant. The case shall be tried in accordance with the Texas Rules of Civil Procedure. As amended Acts 1963, 58th Leg., p. 850, ch. 325, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Expiration and renewal

Sec. 23. All licenses issued under provisions of this Act shall expire at midnight on December 31st of the calendar year for which they are issued, unless previously revoked, suspended, or invalidated, and application for renewal thereof shall be made in such manner as the Commission shall prescribe. Applications for renewal of said license shall be made between the 1st day of September and the 1st day of December. Provided, however, that no applicant who has held a license during the preceding year before making application under The Real Estate License Act of Texas shall be required to take an examination unless such license was suspended, revoked, or cancelled for violation of this Act. As amended Acts 1963, 58th Leg., p. 850, ch. 325, § 5.

Effective 90 days after May 24, 1963, date of adjournment.

Real estate investment trust act, see art. 6138A.

Section 6 of the amendatory act of 1963 was a penal provision and was incorporated in the Penal Code as article 1137o; section 7 thereof repealed all conflicting laws and parts of laws.

Violations of the Real Estate License Act, see Vernon's Ann.P.C. art. 1137o.

TITLE 116—ROADS, BRIDGES, AND FERRIES

CHAPTER ONE—STATE HIGHWAYS

1A. CONSTRUCTION AND
MAINTENANCE

Art.

6674n—3. Costs of relocating or adjusting eligible utility facilities in acquisition of rights-of-way [New].

2. REGULATION OF VEHICLES

Art.

6675a—6c. Temporary registration permits for foreign commercial vehicles [New].

1A. CONSTRUCTION AND MAINTENANCE

Art. 6674m. Partial payments

Said contracts may provide for partial payments to an amount not exceeding ninety-five per cent (95%) of the value of the work done. Five per cent (5%) of the contract price shall be retained until the entire work has been completed and accepted. As amended Acts 1963, 58th Leg., p. 129, ch. 76, § 1.

Emergency. Effective April 26, 1963.

Art. 6674n—3. Costs of relocating or adjusting eligible utility facilities in acquisition of rights-of-way

Section 1. In the acquisition of all highway rights-of-way by or for the Texas Highway Department, the cost of relocating or adjusting utility facilities which cost may be eligible under the law is hereby declared to be an expense and cost of right-of-way acquisition.

Sec. 2. All contracts or agreements heretofore made and entered into by the various counties and cities for the purposes stated above are hereby ratified and validated. Acts 1963, 58th Leg., p. 654, ch. 240.

Emergency. Effective May 30, 1963.

Abilene State School, acquisition of excess lands, see art. 3232c, § 2.

2. REGULATION OF VEHICLES

Art. 6675a—1. Definitions of terms

(q) By "operated or moved temporarily upon the highways" is meant the operation or conveying between different farms, between a place of supply or storage to farms and return, or from an owner's farm to the place where his farm produce is prepared for market or where same is actually marketed and return. As amended Acts 1963, 58th Leg., p. 119, ch. 70, § 2.

Emergency. Effective April 24, 1963.

(t) "Fertilizer trailer" means every "trailer" as defined in Subsection (g) herein, designed and used solely to transport fertilizer from the place of supply or storage to the farm. Added Acts 1963, 58th Leg., p. 119, ch. 70, § 1.

Emergency. Effective April 24, 1963.

Art. 6675a—2. Registration

(a). Every owner of a motor vehicle, trailer or semitrailer used or to be used upon the public highways of this State shall apply each year to the State Highway Department through the County Tax Collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current calendar year or unexpired portion thereof; provided, that where a public highway separates lands under the dominion or control of the owner, the operation of such a motor vehicle by such owner, his agent or employee, across such highway shall not constitute a use of such motor vehicle upon a public highway of this State.

(b). Owners of farm tractors, farm trailers and farm semitrailers with a gross weight not exceeding four thousand (4,000) pounds, and implements of husbandry operated or moved temporarily upon the highways shall not be required to register such farm tractors, farm trailers, farm semitrailers and implements of husbandry.

(c) Owners of farm trailers and farm semitrailers with a gross weight exceeding four thousand (4,000) pounds but not exceeding ten thousand (10,000) pounds and used solely to transport their own seasonally harvested agricultural products and livestock from the place of production to the place of process, market or storage thereof, or farm supplies from the place of loading to the farm, and owners of machinery used solely for the purpose of drilling water wells or construction machinery (not designed for the transportation of persons or property on the public highways), may operate or move such vehicles temporarily upon the highways without the payment of the regular registration fees as prescribed by law, provided the owners of such farm trailers and semitrailers and machinery secure for a fee of Five Dollars (\$5) for each year or portion thereof a distinguishing license plate from the State Highway Department through the County Tax Collector upon forms prescribed and furnished by the Department. Such vehicles shall be exempt from the inspection requirements of Sections 140 and 141 of the the Uniform Act Regulating Traffic on Highways. As amended Acts 1962, 57th Leg., 3rd C.S., p. 44, ch. 15, § 1.

Emergency. Effective Feb. 1, 1962

(e-1) The exemptions from registration under Subsection (b) hereof and from regular fees under Subsection (c) hereof shall apply to fertilizer trailers used solely to transport fertilizer, without charge, between a place of supply or storage to farms and return, and also shall apply to trailers hauling cotton seed, without charge, between place of supply or storage to farms or place of process and return. Added Acts 1963, 58th Leg., p. 119, ch. 70, § 3.

Emergency. Effective April 24, 1963.

(h) (1) Owners of truck tractors, semitrailers, or low-boy trailers used exclusively in the transporting on the highways of their own soil conservation machinery or equipment used in clearing land, terracing, building farm ponds, levies or ditches may register, at a reduced license fee, not more than one such truck or truck tractor, and one semitrailer or low-boy trailer, the license fee for which shall be fifty per cent (50%) of the amount usually charged for such a vehicle having the same gross weight; provided that such owner shall not be eligible for the reduced fee unless he submits along with his application for registration: (a) an affidavit that the vehicle is to be used only for the stated purposes, and (b) a certification by the County Agricultural Stabilization and Conser-

vation Committee that the applicant has been approved as a vendor of conservation services or materials.

(2) The registration certificate issued for such vehicle shall clearly indicate the nature of the operation for which such vehicle shall be used and the registration shall be carried at all times in or on the vehicle in such a manner as to permit ready inspection.

(3) Any vehicle exempt from regular fees under this Subsection and operated and moved upon the public highways of this State in violation of this Subsection shall be deemed to be operated or moved unregistered and shall immediately be subject to the regular registration fees and penalties prescribed by law. Added Acts 1963, 58th Leg., p. 1350, ch. 512, § 1.

Effective 90 days after May 24, 1963, date of adjournment. prior to movement on highways, see Vernon's Ann.P.C. art. 827a—6, § 2.

Oversize and overweight oil well servicing and drilling machinery, registration Section 2 of the amendatory act of 1961 amended art. 6701d, sec. 132(3).

Art. 6675a—6. Fees; commercial motor vehicles or truck-tractors

Fees for registration of oversize and overweight oil well servicing and drilling machinery, see Vernon's Ann.P.C. art. 827a—6, § 4.

Art. 6675a—6a. Registration fee; commercial motor vehicles used principally for farm purposes

Operation of commercial vehicles by persons other than owner, see art. 6701c—1.

Art. 6675a—6c. Temporary registration permits for foreign commercial vehicles

Authority to issue permits; exceptions

Section 1. To provide for the movement of commercial motor vehicles, trailers, and semitrailers subject to registration by the State of Texas, which are not authorized to travel on the public roads of the State for lack of registration or for lack of reciprocity with the State or Country in which such vehicles are registered, the Texas Highway Department is authorized to issue temporary permits which shall be recognized as legal registration. However, such temporary permits shall not be issued for the importation of agricultural commodities other than pineapples or bananas into Texas from a foreign country under the provisions of this Section except for foreign export or processing for foreign export.

Fee; conditions

Sec. 2. A temporary permit valid for twenty-four (24) hours shall be issued for the fee of Two Dollars (\$2).

The twenty-four hour permit shall be valid for any period of time not to exceed twenty-four (24) hours from the effective date and time as shown on the receipt issued as evidence of such registration, and such permit shall provide only for the movement of each vehicle transporting property between Mexico and counties of this State which have a boundary contiguous with Mexico; provided that each such twenty-four hour permit shall be valid only within the county of entry and within one other county adjoining said county of entry as specified on said permit; provided, however, that each county involved must be contiguous to Mexico. Such temporary permits shall not be issued for the importation of agricultural commodities other than pineapples or bananas into Texas from a foreign country under the provisions of this Section except for foreign export or processing for foreign export.

Rules and regulations

Sec. 3. The Texas Highway Department may, from time to time, promulgate such reasonable rules and regulations as it may deem necessary to carry out the orderly operation of this Act and may prescribe an application for such permits and other forms as it may deem proper.

Method of issuance; deposit of fees

Sec. 4. Such temporary registration permits shall be issued by the County Tax Assessors-Collectors or by the Texas Highway Department upon receipt of proper application accompanied by the statutory fees, as prescribed by Section 2 above, in cash, postal money order, or certified check for each such vehicle to be operated or moved upon the public highways. All registration permit fees collected by the Texas Highway Department shall be deposited in the State Treasury to the credit of the State Highway Fund, and such fees collected by the County Tax Assessors-Collectors shall be reported and deposited the same as all other registration fees as provided by Section 10, Chapter 88, Acts of the Forty-first Legislature, Second Called Session, 1929, as amended by Section 2, Chapter 301, Acts of the Fifty-fifth Legislature, Regular Session, 1957 (codified in Vernon's Texas Civil Statutes as Article 6675a-10).

Liability insurance

Sec. 5. Before the issuance of such temporary registration permits, the operator of any vehicle entering this State from another Country shall present to the County Tax Assessor-Collector or the Highway Department such evidence as shall indicate that such motor vehicle is protected by such insurance and in such amounts as may be prescribed in Section 5 of the Texas Motor Vehicle Safety Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes) as it is now written or as it may hereafter be amended, and such policies must be issued by an insurance company or surety company authorized to write Motor Vehicle Liability Insurance in this State.

Violations; penalties

Sec. 6. Any person violating any provisions of this Act shall be deemed guilty of a misdemeanor, and on conviction, shall be fined in any sum not exceeding Two Hundred Dollars (\$200); provided, however, nothing in this Act shall exempt the operator of a motor vehicle from complying with all other laws regulating the operation of motor vehicles in this State. Acts 1963, 58th Leg., p. 1361, ch. 517.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6675a-10. Apportionment of funds

Temporary registration permits for foreign commercial vehicles, see art. 6675a-6c.

Art. 6686. Dealer's license; notice of sale or transfer; temporary license plates

(a) Dealer's and Manufacturer's License Plates for Unregistered Motor Vehicles, Motorcycles, House Trailers, Trailers, and Semitrailers.

(1) Dealer's License. Any dealer in motor vehicles, motorcycles, house trailers, trailers, or semitrailers doing business in this State may, instead of registering each vehicle he operates or permits to be operated for any

reason upon the streets or public highways, apply for and secure a general distinguishing number which may be attached to any such vehicle he owns and operates or permits to be operated unregistered. A dealer within the meaning of this Act means any person, firm, or corporation customarily engaged in the business of buying, selling, or exchanging motor vehicles, motorcycles, house trailers, trailers, or semitrailers at an established and permanent place of business; provided, however, that at each such place of business a sign in letters at least six (6) inches in height must be conspicuously displayed showing the name of the dealership under which such dealer is doing business, and that each such place of business must have an office and sufficient space to display at least one (1) vehicle.

(2) **Manufacturer's License.** Any manufacturer of motor vehicles, motorcycles, house trailers, trailers, or semitrailers in this State may, instead of registering each new vehicle he may wish to test upon the streets or public highways, apply for and secure a general distinguishing number which must be attached to any such vehicle sent unregistered upon the highways for the purpose of testing; provided, however, that no load may be carried upon commercial motor vehicles so tested. A manufacturer within the meaning of this Act means any person, firm, or corporation who manufactures or assembles in this State new motor vehicles, motorcycles, house trailers, trailers, or semitrailers.

(3) **Buyer's Temporary Cardboard Tags.** Each dealer holding a current distinguishing number may issue temporary cardboard numbers, corresponding to such dealer's license number, which may be used by a buyer to operate an unregistered vehicle he purchased from said dealer for a period of ten (10) days from the date of purchase; provided, however, that a dealer may issue only one (1) buyer's tag to a purchaser for each unregistered vehicle said dealer sells. The specifications, color, and form of such buyer's cardboard tag shall be prescribed by the Department; provided, however, that each dealer shall be responsible for the safekeeping and distribution of all cardboard tags obtained by him; and furthermore, each dealer is responsible for showing in ink on each buyer's cardboard tag he issues the actual date of sale of each unregistered vehicle together with other information asked for thereon.

(4) **Dealer's Temporary Cardboard Tags.** Each dealer holding a current distinguishing number may issue temporary cardboard numbers, corresponding to such dealer's license number, which may only be used by such dealer or his employees for the following purposes:

[a] to demonstrate or cause to be demonstrated his unregistered vehicles to prospective buyers only for the purpose of sale; provided, however, that no provision of this Act shall be construed to prohibit a dealer from permitting a prospective buyer to operate such vehicles in the course of demonstration.

[b] to convey or cause to be conveyed his unregistered vehicles from the dealer's place of business in one part of the State to his place of business in another part of the State, or from his place of business to a place to be repaired, reconditioned, or serviced, or from the point in this State where such vehicles are unloaded to his place of business, including the moving of such vehicles from the State line to his place of business, and such vehicles displaying such tags while being so conveyed shall be exempt from the mechanical inspection requirements of Sections 140 and 141 of the Uniform Act Regulating Traffic on Highways.¹

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

Such tags shall not be used to operate vehicles for the personal use of a dealer or his employees. Whenever a dealer sells an unregistered vehicle to a retail purchaser, it shall be such dealer's responsibility to remove the Dealer's Temporary Cardboard Tag and to display the Buyer's Temporary Cardboard Tag thereon pursuant to Subsection (3) of this Act. The specifications, form, and color of such dealer's cardboard tags shall be prescribed by the Department.

(5) Cancellation of License. It shall be the duty of the Department to cancel the dealer's or manufacturer's license issued to a person, firm or corporation when such license was obtained by submitting false or misleading information; and the Department is hereby authorized to cancel dealer's licenses whenever a person, firm, or corporation fails, upon demand, to furnish within thirty (30) days to the Department satisfactory and reasonable evidence of being customarily engaged in the business of buying, selling, or exchanging new or used motor vehicles, motorcycles, house trailers, trailers, or semitrailers at either wholesale or retail; and, it is also provided that the Department may cancel dealer's or manufacturer's licenses issued under this Act for the violation of any provisions of this Act or for the misuse or for allowing the misuse of any cardboard tag authorized under this Act; and, furthermore, the Department is hereby authorized to cancel such licenses whenever a dealer refuses to show on such tags the date of sale or any other reasonable information required to be shown thereon by the Department; provided, however, that nothing in this Act shall be construed to prohibit new entries into the business of buying, selling, exchanging, or manufacturing such vehicles; and provided further that any dealer or manufacturer whose license was cancelled under the terms of this Act shall, within ten (10) days, surrender to a representative of the Department any and all license plates, cardboard tags, license stickers, or facsimiles thereof, and receipts issued pursuant to this Act. If any dealer or manufacturer shall fail to surrender to the Department the license plates, the cardboard tags, license stickers, or facsimiles thereof, and receipts as provided herein, the Department shall forthwith direct any peace officer to secure possession thereof and to return same to the Department. Whenever a dealer's or manufacturer's license is cancelled under the provisions of this Act, all benefits and privileges afforded to Texas licensed dealers or manufacturers under Article 1436—1, Penal Code of Texas, are automatically cancelled, also.

(6) Limited Use of Dealer's Plates and Tags. The use of dealer's license or facsimiles thereof is prohibited on service or work vehicles or on commercial vehicles carrying a load; provided, however, that a boat trailer carrying a boat will not be considered to be a commercial vehicle carrying a load, and a dealer complying with the provisions of this Act may affix to the rear of a boat trailer he owns or to the rear of a boat trailer he sells such dealer's distinguishing number or cardboard facsimiles thereof pursuant to the provisions of Subsections (1), (3) and (4) of this Act.

(7) Fees and Forms. Each applicant for a dealer's or manufacturer's general distinguishing number shall pay to the Department an annual fee of Twenty-five Dollars (\$25) for the first such number desired and Ten Dollars (\$10) for each additional number desired, and all such fees shall be deposited in the State Highway Fund. Applications for a dealer's or manufacturer's license plate shall be made in writing on forms prescribed and furnished by the Department, and such applications shall require any pertinent information to insure proper enforcement and administration; and, furthermore, each such application shall contain a statement to the effect that the applying dealer agrees to permit the Department to examine

during working hours the ownership papers for each vehicle, registered or unregistered, in the possession of said dealer or under his control. All facts stated in an application shall be sworn to before an officer authorized to administer oaths and no dealer's or manufacturer's distinguishing number shall be issued until this Act is complied with. All such applications for dealer's or manufacturer's licenses, accompanied by the prescribed fee, should be made to the Department by January 15 of each year and the license plates for those applications meeting the provisions of this Act will be mailed to the applicants during the succeeding months of February and March. Each dealer's and manufacturer's license shall expire at the expiration of the "Motor Vehicle Registration Year."

(8) Defining Vehicle. The term "vehicle" as used in this Act shall be construed to mean motor vehicle, motorcycle, house trailer, trailer, and semitrailer as defined in Article 6675a—1, Revised Civil Statutes.

(9) Defining Department. The term "Department" as used in this Act means the "Texas Highway Department."

(10) Since the operation of vehicles registered in other states is restricted to residents of such states, a dealer who purchases vehicles displaying out-of-state license plates must immediately remove the license plates from such vehicles; and, furthermore, no dealer shall operate or allow to be operated in Texas, for any reason whatsoever, a vehicle displaying out-of-state license plates.

(11) Rules and Regulations. The Department is hereby authorized to promulgate reasonable rules and regulations for the orderly administration of this Act.

(12) Change of Address. It shall be the duty of any dealer or manufacturer as defined in this Act and to whom dealer's or manufacturer's license plates have been issued to notify the Department of a change of address within ten (10) days after such address change.

(13) Display of Dealer's License Plates. The general distinguishing number and all temporary cardboard tags issued pursuant to this Act shall be displayed in a manner conforming to the Department's regulations pertaining to the display of such plates and tags on unregistered vehicles operating on the streets or highways of this State.

(14) Unauthorized Reproduction of Temporary Cardboard Tags. No one other than a dealer as defined in this Act and to whom a current distinguishing number has been issued shall be authorized to produce or reproduce by any means whatsoever a Buyer's or Dealer's Temporary Cardboard Tag, and, furthermore, no person, firm or corporation may operate vehicles displaying unauthorized cardboard tags. Any violation of the provisions of this Subsection shall be deemed a misdemeanor and the violator, upon conviction, shall be fined not less than Twenty-five Dollars (\$25) and not more than Two Hundred Dollars (\$200) and all costs of court.

(15) Penalty. Any dealer or manufacturer violating any provisions of this Act for the violation of which no other penalty is prescribed shall be deemed guilty of a misdemeanor, and on conviction, shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200) and all the costs of court. As amended Acts 1961, 57th Leg., p. 36, ch. 23, § 1; Acts 1963, 58th Leg., p. 45, ch. 30, § 1.

¹ Article 6701d, §§ 140, 141.

Effective 90 days after May 24, 1963, date of adjournment.

The first paragraph of section (b) was repealed by Acts 1963, 58th Leg., p. 45, ch. 30, § 1.

Art. 6701c-1. Commercial vehicles or truck-tractors; operation by other than owner

Filing copy of lease, memorandum or agreement; letter of acknowledgment; copies carried in cab; display; exceptions

Sec. 2. No commercial motor vehicle nor any truck-tractor shall be operated over any public highway of this state by any person other than the registered owner thereof, or his agent, servant or employee under the supervision, direction, and control of such registered owner unless such other person under whose supervision, direction and control said motor vehicle or truck-tractor is operated shall have caused to be filed with the Department an executed copy of the lease, memorandum or agreement under which such commercial motor vehicle or truck-tractor is being operated.

Immediately upon receipt thereof, the Department shall deliver or mail forthwith to the lessee of such motor vehicle or truck-tractor, a letter of acknowledgment thereof, with the official stamp or seal of the Department affixed to such letter.

Such letter of acknowledgment shall contain:

1. The names of the lessor and lessee and their addresses;
2. The term of the lease;
3. The make, and motor or serial number of the vehicle covered by such lease; and
4. Such other data as the Department may determine.

For the purposes of this Act, a lease, memorandum or agreement shall not be considered as filed with the Department unless and until the lessee of such motor vehicle or truck-tractor shall have mailed by certified mail a duly executed copy of said lease, memorandum or agreement in the United States Mail properly addressed to the Department, and at the time of said mailing obtaining from the Post Office a receipt for certified mail properly postmarked by the Post Office Clerk showing the date and place of mailing.

The lessee of said motor vehicle or truck-tractor shall have in the cab thereof during the first five (5) days of operation under said lease, memorandum or agreement a true copy of said lease, memorandum or agreement, together with the letter of transmittal of such lease to the Department, as well as said receipt for certified mail, which shall be effective for a period not to exceed five (5) days from the date issued. Following the expiration of said five (5) day period the lessee of said motor vehicle or truck-tractor shall have in the cab thereof at all times while such motor vehicle or truck-tractor is being operated on the roads or highways of this state, a true copy of the original letter of acknowledgment, as provided herein, with the official stamp or seal of the Department affixed thereto. Such letter of acknowledgment, or an effective receipt for certified mail, must be displayed to any officer authorized to enforce this law, upon request of such officer.

The operation of any such leased motor vehicle or truck-tractor over the public highways or roads of this state without having in the cab thereof such letter of acknowledgment from the Department with its official stamp or seal affixed thereto, or an effective receipt for certified mail, as well as the letter of transmittal and copy of said lease, memorandum or agreement, as provided for herein, shall be unlawful.

Wherever the word "Department" is used herein it means "Department of Public Safety of the State of Texas."

Provided, however, that this Act shall not apply to any vehicle lawfully registered as a farm vehicle under the provisions of Acts of the 41st Legislature, 2nd Called Session, 1929, Chapter 88, page 172, Section 6a, as amended by subsequent session of the Legislature and as codified as Article 6675a—6a, Revised Civil Statutes of Texas. And provided further, that this Act shall not apply to motor vehicles, commercial motor vehicles, and truck-tractors used exclusively to transport sand, gravel, dirt, caliche, shell, cement, ready-mix concrete, asphalt rock, and aggregate; nor shall this Act apply to such vehicles as are used exclusively in the transportation of sand, gravel, dirt, caliche, shell, cement, ready-mix concrete, asphalt rock, aggregate, and other similar road-building substances ordinarily transported in bulk when such substances are being transported to or from the job site of any construction project being performed for or on behalf of the Federal Government, the State of Texas or any political subdivision thereof, or to or from the construction site of any national defense project, airport and roadways leading thereto, or to or from the construction site of any road, highway, and expressway; nor shall the requirements of this Act apply to any motor vehicle or truck-tractor which is used exclusively in the transportation of liquefied petroleum gases when such vehicle is being operated in accordance with the provisions of Chapter 363, page 612, Acts 52nd Legislature, 1951, and the provisions of Article 6053, Revised Civil Statutes of Texas, 1925, as amended, and the rules and regulations adopted by the Railroad Commission of Texas governing the handling and odorization of liquefied petroleum gases and specifications for the design, construction and installation of equipment used in the transportation, storage, dispensing, and consumption of liquefied petroleum gases. And provided further, that this Act shall not apply to commercial motor vehicles and truck-tractors leased or rented:

(a) without drivers from an individual, person, co-partnership, association or corporation whose principal business is the bona fide leasing or renting of motor vehicle equipment without drivers for compensation to the general public;

(b) and who maintain an established place of business and whose lease or rental contracts require the motor vehicle equipment to return to the established place of business;

(c) and who have dated and filed within ten (10) days of January 1st, April 1st, July 1st, and October 1st of each year, with the Department of Public Safety, a complete list giving a full description of all such commercial motor vehicles and truck-tractors owned by such individual, person, co-partnership, association or corporation, as of the date of the report, and available for lease or rent without drivers for compensation. The first complete list filed herein must be accompanied by a fee of One (\$1.00) Dollar for each vehicle listed therein, together with a photostat or certified copy of the registration or title papers on every such motor vehicle; however, no such fee need be filed in subsequent quarterly filings unless such subsequent list contains additional equipment, in which event a fee of One (\$1.00) Dollar, together with photostat or certified copy of the registration or title papers on such additional equipment shall be filed. Provided, however, that the provisions of this Act shall not apply to motor vehicles, commercial motor vehicles, and truck-tractors used exclusively to transport household goods, used office furniture and equipment.

If for any reason any one or more of the foregoing exceptions contained in this Act is unconstitutional or invalid, it is hereby declared to be

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

the intention of the Legislature to enact, and it does here now enact and pass, this Act without any such exception, one or more, and if any such exception, one or more, be invalid, then such exception alone shall fail and be held for nought, and the remainder of the Act shall be and remain unimpaired, and it is so enacted. As amended Acts 1963, 58th Leg., p. 108, ch. 60, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Violations; punishment

Sec. 9. The lessor, lessee, person, driver, operator, or other person, corporation, firm or co-partnership, operating or driving or causing or permitting the operating or driving of such commercial motor vehicle or truck-tractor failing to comply with any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be fined a sum of not less than One Hundred (\$100.00) Dollars and not exceeding Two Hundred (\$200.00) Dollars. As amended Acts 1963, 58th Leg., p. 108, ch. 60, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER ONE A--TRAFFIC REGULATIONS

Art.

6701k. Vehicle equipment safety commission [New].

Art. 6701d. Uniform Act Regulating Traffic on Highways

Sections 86-90.

The first sentence of section 2 of Acts 1963, 58th Leg., p. 455, ch. 161, which added sections 166-172 to this article, provided: "Nothing in this Act shall be construed to repeal or in any way modify, alter or amend Sections 86, 87, 88, 89 and 90 of the Uniform Act Regulating Traffic on Highways, codified as Article 6701d, Vernon's Texas Civil Statutes, and being Acts of the Fiftieth Legislature, Regular Session, 1947, Chapter 421, page 927."

Regulations relative to school busses

Sec. 105(a) The Texas Education Agency and the State Board of Control, by and with the advice of the Director of the Department of Public Safety, shall have joint and complete responsibility to adopt and enforce regulations governing the design, color, lighting and other equipment, construction, and operation of all school buses for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this State and such regulations shall by reference be made a part of any such contract with a school district. The State Board of Control shall coordinate and correlate all specification data, finalize and issue the specifications so adopted as provided for by Section 10, Chapter 304, Acts of the Fifty-fifth Legislature, 1957 (codified as Article 664-3, Vernon's Texas Civil Statutes). In the promulgation of such regulations, emphasis shall be placed on safety features and long-range, maintenance-free factors; provided, however, all school buses shall be purchased on competitive bids as provided by Article 634(B), Vernon's Texas Civil Statutes. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to said regulations. The

State Board of Control shall purchase equipment to conform to these standards (as prescribed by the above-mentioned body).

(b) It shall be unlawful to operate any flashing warning signal light on any school bus except when any said school bus is being stopped or is stopped on a highway for the purpose of permitting school children to board or alight from said school bus. As amended Acts 1963, 58th Leg., p. 1364, ch. 519, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

ARTICLE XIX—SPEED RESTRICTIONS

Maximum speeds of vehicles

Sec. 166. (a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the circumstances then existing. Except when a special hazard exists that requires lower speeds for compliance with paragraph (b) of this Section, the limits specified in this Section or established as hereinafter authorized shall be lawful, but any speed in excess of the limits specified in this Section or established as hereinafter authorized shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:

1. Thirty (30) miles per hour in any urban district;
 2. Seventy (70) miles per hour during the daytime and sixty-five (65) miles per hour during the nighttime for any passenger car on any State or Federal numbered highway outside any urban district, including farm-and/or ranch-to-market roads, and sixty (60) miles per hour during the daytime and fifty-five (55) miles per hour during the nighttime for any passenger car on all other highways outside any urban district;
 3. Sixty (60) miles per hour for all other vehicles on any highway outside any urban district;
 4. The speed limits for any bus or other vehicle engaged in this State in the business of transporting passengers for compensation or hire, and for any commercial vehicle which is in authorized use as a "Highway Post Office" vehicle furnishing Highway Post Office service in the transportation of the United States mail shall be the same as prescribed for passenger cars at the same location.
 5. The above limitations notwithstanding, the following prima facie maximum limits are declared, for any highway outside any urban district:
 - a. Forty-five (45) miles per hour for any vehicle towing any house trailer of actual or registered gross weight exceeding four thousand, five hundred (4,500) pounds or with an over-all length exceeding thirty-two (32) feet, excluding the tow bar.
 - b. Sixty (60) miles per hour in daytime and fifty-five (55) miles per hour during nighttime for any truck, truck tractor, trailer or semitrailer, or for any vehicle towing any trailer, semitrailer, another motor vehicle, or any house trailer of actual or registered gross weight, less than four thousand, five hundred (4,500) pounds and over-all length of thirty-two (32) feet or less, excluding the tow bar.
 - c. Fifty (50) miles per hour for any school bus.
- "Daytime" means from one half ($\frac{1}{2}$) hour before sunrise to one half ($\frac{1}{2}$) hour after sunset, and "nighttime" means at any other hour.

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

"Urban District" means the territory contiguous to and including any highway or street which is built up with structures devoted to business, industry or dwelling houses, situated at intervals of less than one hundred (100) feet for a distance of one-quarter of a mile or more.

"Passenger car" means every motor vehicle, except motorcycles and motor-driven cycles, designed for carrying ten (10) passengers or less and used for the transportation of persons.

The maximum speed limits set forth in this Section may be altered as authorized in Sections 167, 168 and 169.

(b) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event 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.

(c) The driver of every vehicle shall, consistent with the requirements of paragraph (b), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions. Added Acts 1963, 58th Leg., p. 455, ch. 161, § 1.

Authority of State Highway Commission to alter maximum speed limits

Sec. 167. (a) Whenever the State Highway Commission shall determine upon the basis of an engineering and traffic investigation that any prima facie maximum speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the highway system, 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, said State Highway Commission may determine and declare a reasonable and safe prima facie maximum speed limit thereat or thereon, by proper order of the Commission entered on its minutes, which limit, when appropriate signs giving notice thereof are erected, shall be effective at such intersection or other place or part of the highway system at all times or during hours of daylight or darkness, or at such other times as may be determined; provided, however, that said State Highway Commission shall not have the authority to modify or alter the rules established in paragraph (b) of Section 166, nor to establish a speed limit higher than seventy (70) miles per hour; and provided further that the speed limits for vehicles described in paragraphs a, b, and c of subdivision 5 of Subsection (a) of Section 166 shall not be increased.

(b) The authority of the State Highway Commission to alter maximum speed limits shall exist with respect to any part of any highway, road or street officially designated or marked by the State Highway Commission as part of the State Highway System. Also, this authority shall exist both within and without the limits of an incorporated city, town or village, including Home Rule Cities, with respect to highways declared to be limited-access or controlled-access highways as defined by this Act.

(c) The State Highway Commission shall, in conducting the engineering and traffic investigation specified in paragraph (a) of Section 167, follow its "Procedure for Establishing Speed Zones" which is in use

on the effective date of this Act and as same may be subsequently revised for reasons of technological advancements in traffic operation, design and construction of highways and motor vehicles, as well as the safety of the motoring public. Added Acts 1963, 58th Leg., p. 455, ch. 161, § 1.

**Authority of Texas Turnpike Authority to alter maximum
prima facie speed limits on turnpike projects**

Sec. 168. (a) Whenever the Texas Turnpike Authority shall determine upon the basis of an engineering and traffic investigation that any maximum prima facie speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a turnpike constructed and maintained by it, taking into consideration the width and condition of the pavement and other circumstances on such portion of said turnpike as well as the usual traffic thereon, the Legislature hereby directs the Texas Turnpike Authority to determine and declare a reasonable and safe maximum prima facie speed limit thereat or thereon, by proper order of the Authority entered on its minutes, for all vehicles or for any class or classes of vehicles hereinabove established, which limit, when appropriate signs giving notice thereof are erected, shall be effective at such intersections or other places or part of the highway at all times or during hours of daylight or darkness, or at such other times as may be determined.

(b) The authority of the Texas Turnpike Authority to alter maximum prima facie speed limits shall be effective upon any part of any turnpike project constructed and maintained by it pursuant to House Bill No. 4, Chapter 410, Acts of 1953, Fifty-third Legislature, Regular Session, codified as Article 6674v, Vernon's Revised Civil Statutes of Texas, as same may be amended, both within and without the corporate limits of any incorporated city, town or village, including Home Rule Cities. Such authority shall be exclusive with respect to any such project, and the authorities prescribed in Sections 167 and 169 shall not apply upon any part of any such turnpike project; provided, however, that should any turnpike constructed by the Texas Turnpike Authority ever become a part of the designated State Highway System, the State Highway Commission shall then have the sole authority to alter maximum prima facie speed limits thereon as prescribed in Section 167. The Texas Turnpike Authority shall not have the authority to alter the basic rule established in paragraph (a) of Section 166 nor to establish a speed limit higher than seventy (70) miles per hour.

(c) The Texas Turnpike Authority shall, in conducting the engineering and traffic investigations specified in paragraph (a) of Section 168, following the "Procedure for Establishing Speed Zones" prepared by the Texas Highway Department which is in use on the effective date of this Act and as same may be subsequently revised for reasons of technological advancements in traffic operation, design and construction of highways and motor vehicles, as well as the safety of the motoring public. Added Acts 1963, 58th Leg., p. 455, ch. 161, § 1.

**Authority of County Commissioners Court and governing bodies of
incorporated cities, towns and villages to alter maximum
prima facie speed limits**

Sec. 169. (a) The County Commissioners Court of any county with respect to county highways or roads outside the limits of the right-of-way of any officially designated or marked highway, road or street of the State Highway System and outside the limits of any incorporated city, town or village shall have the same authority by order of the County Commissioners

Court entered upon its records to alter maximum prima facie speed limits upon the basis of an engineering and traffic investigation as that delegated to the State Highway Commission with respect to any officially designated or marked highway, road or street of the State Highway System; provided that under no circumstances shall any County Commissioners Court have the authority to modify or alter the basic rule established in paragraph (a) of Section 166 nor to establish a speed limit higher than sixty (60) miles per hour.

(b) The governing body of an incorporated city, town or village with respect to any highway, street or part of a highway or street, including those marked as a route of a highway of the State Highway System, within its corporate limits, shall have the same authority by city ordinance to alter maximum prima facie speed limits upon the basis of an engineering and traffic investigation as that delegated to the State Highway Commission with respect to any officially designated or marked highway, road or street of the State Highway System; provided that under no circumstances shall any such governing body have the authority to modify or alter the basic rule established in paragraph (a) of Section 166, nor to establish a speed limit higher than sixty (60) miles per hour, and provided, further, that any order of the State Highway Commission declaring a speed limit upon any part of a designated or marked route of the State Highway System made pursuant to Section 167 shall supersede any city ordinance in conflict therewith. Added Acts 1963, 58th Leg., p. 455, ch. 161, § 1.

Minimum speed regulations

Sec. 170. (a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever the State Highway Commission, County Commissioners Court or the governing body of any incorporated city, town or village, within their respective jurisdictions, as specified in Sections 167 and 169, determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the said State Highway Commission, County Commissioners Courts or governing body of an incorporated city, town or village, are hereby empowered and may determine and declare a minimum speed limit thereat or thereon, and when appropriate signs are erected, giving notice of such minimum speed limit, no person shall drive a vehicle below that limit except when necessary for safe operation or in compliance with law. Acts 1963, 58th Leg., p. 455, ch. 161, § 1.

Charging violations and rule in civil cases

Sec. 171. (a) In every charge of violation of any speed regulation in this Act, the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the maximum or minimum speed limit applicable within the district or at the location.

(b) The provisions of this Act declaring maximum or minimum speed limitations shall not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident. Added Acts 1963, 58th Leg., p. 455, ch. 161, § 1.

Exceptions to speed law

Sec. 172. The provisions of this Article regulating speeds of vehicles shall not apply to vehicles operated by the fire department of any city, town or village responding to calls, nor to police patrols, nor to physicians and/or ambulances responding to emergency calls, provided that incorporated cities and towns may by ordinance regulate the speed of ambulances. Added Acts 1963, 58th Leg., p. 455, ch. 161, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6701h. Safety Responsibility Law**Definitions****Section 1.**

10. "Proof of Financial Responsibility." Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of Ten Thousand Dollars (\$10,000) because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of Twenty Thousand Dollars (\$20,000) because of bodily injury to or death of two (2) or more persons in any one accident, and in the amount of Five Thousand Dollars (\$5,000) because of injury to or destruction of property of others in any one accident. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 1.

Emergency. Effective Jan. 1, 1964.

Administration of act; appeal to court; stay order; proof of financial responsibility; maintaining proof with department

Sec. 2.

(b) Any order or act of the Department, under the provisions of this Act, may be subject to review within thirty (30) days after notice thereof, or thereafter for good cause shown, by appeal to the County Court at Law at the instance of any party in interest and in the county wherein the person aggrieved by such order or act resides, or if there be no County Court at Law therein, then in the County Court of said county, or if there be no County Court having jurisdiction, then such jurisdiction shall be in the District Court of said county, and such Court is hereby vested with jurisdiction, and such appeal shall be by trial de novo. The Court shall determine whether the filing of the appeal shall operate as a stay of any such order or decision of the Department, with the exception that no stay order shall be granted staying an order of suspension by the Department of Public Safety that is based on a final judgment rendered against any person in this State by a court of competent jurisdiction growing out of the use of a motor vehicle in this State when said judgment is a subsisting final judgment and unsatisfied; further, an appeal shall not operate as a stay of any such other orders or decisions of the Department of Public Safety where the aggrieved party was involved in an accident involving a motor vehicle which he was operating if he was charged with a violation of any of the laws of the State of Texas, or any of its political subdivisions, and said complaint or indictment is pending at the time the appeal from an order or decision of the Department of Public Safety is filed, unless the aggrieved party shall file proof of financial responsibility with the Department of Public Safety as a condition precedent to the obtaining of said stay and maintain said proof of financial responsibility until dismissal of

said complaint or indictment or for such period of time as provided for in Section 2(d) of this Act. If the aggrieved party shall at the time of said appeal in lieu of proof of financial responsibility file with the court and the Department of Public Safety an affidavit setting forth specific facts which would entitle the aggrieved party to an acquittal of the complaint or indictment filed against the aggrieved party, he shall be entitled to a temporary stay of the order of the Department of Public Safety without the necessity of filing proof of financial responsibility. Upon the filing of such affidavit, the cause shall take priority upon the court's docket in said Court where said complaint or indictment is pending and if the same is not tried within forty-five (45) days from the date of filing of such complaint or indictment, shall thereafter be subject to transfer to such county or District Court of an adjoining county upon the filing of a motion thereof by the aggrieved party. If within ninety (90) days from the date of the original suspension or order by the Department of Public Safety, the Department has not received a certified copy of a judgment of the court acquitting the aggrieved party, the Department of Public Safety shall again order the driver's license and the registrations of all motor vehicles registered in the aggrieved party's name suspended and from this said order of the Department of Public Safety, no appeal shall operate as a stay unless the aggrieved party files with the Department of Public Safety, as an absolute condition precedent to the obtaining of a stay, proof of financial responsibility and maintain said proof of financial responsibility until said complaint or indictment has been dismissed or if the aggrieved party has plead guilty or been convicted for the period of time provided for in Section 2(d) of this Act. Upon the disposition of said complaint or indictment either by a plea of guilty or final conviction, the aggrieved party who shall have plead guilty or been finally convicted and has previously filed proof of financial responsibility as a condition precedent to obtaining a stay from an order of suspension of the Department of Public Safety, must maintain said proof of financial responsibility with the Department of Public Safety for that period of time provided for in Section 2(d) of this Act. If no stay order has been previously applied for prior to a plea of guilty or final conviction, the aggrieved party can obtain a stay from any order or decision of the Department of Public Safety if said party will file with the Department of Public Safety as a condition precedent to the obtaining of a stay of said order or decision proof of financial responsibility and maintain said proof of financial responsibility as provided for in Section 2(d) of this Act. Where the aggrieved party has been found not guilty to the complaint or indictment filed against him, or said complaint or indictment has been dismissed, filing of proof of financial responsibility shall not be a condition precedent to the granting of a stay from any order or decision of the Department of Public Safety, and prior filing of proof of financial responsibility with the Department of Public Safety as a condition precedent to obtaining a stay from an order or decision of the Department of Public Safety, may be withdrawn. The above provision restricting the granting of a stay order in appeals where the aggrieved party has been charged with the violation of any of the laws of the State of Texas or of any of the political subdivisions shall also limit any court in this State in any original action brought against the Department of Public Safety to enjoin or order the enforcement of any order of the Department of Public Safety issued under this Act. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 2.

(d) Whenever a person has been convicted or pleads guilty to a violation of any of the laws of the State of Texas, or its political subdivisions, growing out of a motor vehicle accident, as specified in Section 2(b) of

this Act, and said party is required to file proof of financial responsibility as a condition precedent to the obtaining of a stay of any order or decision of the Department of Public Safety, said proof of financial responsibility shall be maintained with said Department of Public Safety by said party for a period of three (3) years from date of final conviction or plea of guilty. Added Acts 1963, 58th Leg., p. 1320, ch. 506, § 2.

Emergency. Effective Jan. 1, 1964.

Report required following accident

Sec. 4. The operator of every motor vehicle which is in any manner involved in an accident within the State, in which any person is killed or injured or in which damage to the property of any one person, including himself, to an apparent extent of at least One Hundred Dollars (\$100) is sustained, shall within ten (10) days after such accident report the matter in writing to the Department. Such report, the form of which shall be prescribed by the Department, shall contain information to enable the Department to determine whether the requirements for the deposit of security under Section 5 are inapplicable by reason of the existence of insurance or other exceptions specified in this Act. Any written report of accident in accordance with Section 44, Chapter 421, Acts of the Fiftieth Legislature, Regular Session, 1947, as last amended by Chapter 363, Acts of the Fifty-third Legislature, Regular Session, 1953, compiled as Article 6701d, Section 44, Vernon's Texas Civil Statutes, if actually made to the Department, shall be sufficient provided it also contains the information required herein. The Department may rely upon the accuracy of the information unless and until it has reason to believe that the information is erroneous. If such operator be physically incapable of making such report, the owner of the motor vehicle involved in such accident shall, within ten (10) days after learning of the accident, make such report. The operator or the owner shall furnish such additional relevant information as the Department shall require. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 3.

Emergency. Effective Jan. 1, 1964.

Security; determination of amount; suspension of license and registrations; notice; exceptions

Sec. 5. (a) If twenty (20) days after the receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death, or damage to the property of any one person of at least One Hundred Dollars (\$100), the Department does not have on file evidence satisfactory to it that the person who would otherwise be required to file security under Subsection (b) of this Section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the Department shall determine the amount of security which shall be sufficient in its judgment, and in no event less than Two Hundred Dollars (\$200) to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each operator or owner.

(b) The Department shall, within sixty (60) days after the receipt of such report of a motor vehicle accident, suspend the license and all registrations of each operator and owner of a motor vehicle in any manner involved in such accident, and if such operator or owner is a nonresident the privilege of operating a motor vehicle within this State, and the privilege of the use within this State of any motor vehicle owned by him unless

such operator, owner or operator and owner shall deposit security in the sum so determined by the Department and in no event less than Two Hundred Dollars (\$200), and unless such operator and owner shall give proof of financial responsibility; provided notice of such suspension shall be sent by the Department to such operator and owner not less than ten (10) days prior to the effective date of such suspension and shall state the amount required as security and the necessity for proof of financial responsibility. Where erroneous information is given the Department with respect to the matters set forth in subdivisions 1, 2 and 3 of Subsection (c) of this Section, it shall take appropriate action as hereinbefore provided, within sixty (60) days after receipt by it of correct information with respect to said matters.

(c) This Section shall not apply under the conditions stated in Section 6 nor:

1. To such operator or owner if such owner had in effect at the time of such accident a motor vehicle liability policy with respect to the motor vehicle involved in such accident;

2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident a motor vehicle liability policy or bond with respect to his operation of motor vehicles not owned by him;

3. To any person employed by the government of the United States, when such person is acting within the scope or office of his employment;

4. To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the Department, covered by any other form of liability insurance policy or bond; nor

5. To any person qualifying as a self-insurer under Section 34 of this Act, or to any person operating a motor vehicle for such self-insurer.

No such policy or bond shall be effective under this Section or under Section 7 unless issued by an insurance company or surety company authorized to write motor vehicle liability insurance in this State, except that if such motor vehicle was not registered in this State, or was a motor vehicle which was registered elsewhere than in this State at the effective date of the policy, or the most recent renewal thereof, such policy or bond shall not be effective under this Section unless the insurance company or surety company if not authorized to do business in this State shall execute a power of attorney authorizing the Department to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident; providing, however, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than Ten Thousand Dollars (\$10,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than Twenty Thousand Dollars (\$20,000) because of bodily injury to or death of two (2) or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than Five Thousand Dollars (\$5,000) because of injury to or destruction of property of others in any one accident.

6. Wherever the word 'bond' appears in this Section or this Act, it shall mean a bond filed with and approved by the Department of Public Safety. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 4.

Emergency. Effective Jan. 1, 1964.

Further exceptions to requirement of security

Sec. 6. The requirements as to security, proof of financial responsibility and suspension in Section 5 shall not apply:

1. To the operator or the owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of any one other than such operator or owner;

2. To the operator or the owner of a motor vehicle legally parked or legally stopped at a traffic signal at the time of the accident;

3. To the owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such motor vehicle without such permission; nor

4. If, prior to the date that the Department would otherwise suspend license and registration or nonresident's operating privilege under Section 5, there shall be filed with the Department evidence satisfactory to it that the person, who would otherwise have to file security and proof, has been released from liability or been finally adjudicated not to be liable or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 5.

Emergency. Effective Jan. 1, 1964.

Duration of suspension

Sec. 7. The license and registration and nonresident's operating privilege suspended as provided in Section 5 shall remain so suspended and shall not be renewed nor shall any such license or registration be issued to such person until:

1. Such person shall deposit and file or there shall be deposited and filed on his behalf the security and proof required under Section 5 and under this Section; or

2. Two (2) years shall have elapsed following the date of such accident and evidence satisfactory to the Department has been filed with it that during such period no action for damages arising out of the accident has been instituted, provided such person files proof of financial responsibility; or

3. Evidence satisfactory to the Department has been filed with it of a release from liability, or a final adjudication of nonliability, or a duly acknowledged written agreement, in accordance with subdivision 4 of Section 6; provided, however, in the event there shall be any default in the payment of any installment under any duly acknowledged written agreement, then, upon notice of such default, the Department shall forthwith suspend the license and registration or nonresident's operating privilege of such person defaulting which shall not be restored unless and until

(a) Such person deposits and thereafter maintains security as required under Section 5 in such amount as the Department may then determine and files proof of financial responsibility; or

(b) Two (2) years shall have elapsed following the date when such security was required and during such period no action upon such agreement has been instituted in a court in this State, provided such person

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

gives proof of financial responsibility. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 6.

Emergency. Effective Jan. 1, 1964.

Reinstatement—Fees

Sec. 7A. Whenever a license or registration, or nonresident's operating privilege is suspended and the filing of proof of financial responsibility is, under this Article, made a prerequisite to reinstatement thereof, or to the issuance of a new license or registration, no such license or registration, or nonresident's operating privilege shall be reinstated or new license or registration shall be issued unless the licensee or registrant or nonresident, in addition to complying with other provisions of this Article, pays to the Department a fee of Ten Dollars (\$10) in addition to any other fees which may be required by law. Only one such fee shall be paid by any one person regardless of the number of licenses and registrations to be reinstated for or issued to such person in connection with such payment.

The fees paid pursuant to this Section shall be used by the Department to administer the provisions of this Article. Acts 1951, 52nd Leg., p. 1210, ch. 498, § 7A, added Acts 1963, 58th Leg., p. 1320, ch. 506, § 7.

Emergency. Effective Jan. 1, 1964.

Application to non-residents, unlicensed drivers; unregistered motor vehicles and accidents in other states

Sec. 8.

(c) Upon receipt of such certification that the operating privilege of a resident of this State has been suspended or revoked in any such other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident or to file proof of financial responsibility, under circumstances which would require the Department to suspend a nonresident's operating privilege had the accident occurred in this State, the Department shall suspend the license and all the registrations of such resident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security and proof of financial responsibility. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 8.

Emergency. Effective Jan. 1, 1964.

Form and amount of security

Sec. 9. The security required under this Article may be by cash deposit or by bond written by an insurance company duly authorized to execute surety bonds in this State in the amount the Department may require or in such other form and in such amount as the Department may require but in no case less than Two Hundred Dollars (\$200) nor in excess of the limits specified in Section 5 in reference to the acceptable limits of a policy. The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while such deposit is in the custody of the Department or the State Treasurer of the State of Texas, the person depositing it may, in writing, amend the specification of the person or persons on whose behalf the deposit is made to include an additional person or persons; provided, however, that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident and the same motor vehicle.

The Department may reduce the amount of security ordered in any case within six (6) months after the date of the accident if, in its judgment, the amount ordered is excessive. In case the security originally ordered has been deposited the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of Section 10. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 9.

Emergency. Effective Jan. 1, 1964.

Custody, disposition and return of security

Sec. 10. "Cash" security deposited in compliance with the requirements of this Article shall be placed by the Department in the custody of the State Treasurer and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than two (2) years after the date of such accident, or within two (2) years after the date of deposit of any security under Subdivision 3 of Section 7, or to the payment in settlement, agreed to by the depositor, of a claim or claims arising out of such accident. Such deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the Department has been filed with it that there has been a release from liability, or a final adjudication of nonliability, or a duly acknowledged agreement, in accordance with Subdivision 4 of Section 6, or whenever, after the expiration of two (2) years from the date of the accident, or within two (2) years after the date of deposit of any security under Subdivision 3 of Section 7, the Department shall be given reasonable evidence that there is no such action pending and no judgment rendered in such action left unpaid. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 10.

Emergency. Effective Jan. 1, 1964.

Matters not to be evidence in civil suits

Sec. 11. Upon the filing of the report required by Section 4, the action taken by the Department pursuant to this Article, the findings, if any, of the Department upon which such action is based, nor the security or proof of financial responsibility filed as provided in this Article shall be referred to in any way, nor be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 11.

Emergency. Effective Jan. 1, 1964.

Suspension for non-payment of judgments; exceptions; filing evidence of insurance and original policy

Sec. 13. (a) Upon the receipt of a certified copy of a judgment, the Department shall forthwith suspend the license and all registrations and any nonresident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this Section and in Section 16 of this Act.

(b) If the judgment creditor consents in writing, in such form as the Department may prescribe, that the judgment debtor be allowed license and registration or nonresident's operating privilege, the same may be allowed by the Department, in its discretion, for six (6) months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any

installments thereof prescribed in Section 16, provided the judgment debtor furnishes proof of financial responsibility.

(c) Notwithstanding any other provision of this Act any person whose license, registration or nonresident's operating privilege has been suspended, or is about to be suspended or shall become subject to suspension under this Article, may relieve himself from the effect of the judgment by filing with the Department satisfactory evidence that there was in effect at the time of the accident out of which the judgment arose a policy of liability insurance covering the operation of the motor vehicle involved and filing with the Department an affidavit stating that at the time of the accident upon which the judgment has been rendered he was insured, that the insurer is liable to pay such judgment, and the reason, if known, why the insurance company has not paid the judgment. He shall also file the original policy of insurance or a certified copy thereof, if available, and such other documents as the Department may require to show that the loss, injury, or damage for which the judgment was rendered, was covered by the policy of insurance.

If the Department is satisfied from such papers that the insurer was authorized to issue the policy of insurance in this State at the time of issuing the policy and that such insurer is liable to pay such judgment, at least to the extent and for the amounts provided in this Article, the Department shall not suspend the license, registration or nonresident's operating privilege, or if already suspended, shall reinstate them.

Any person whose license, registration or nonresident's operating privilege has heretofore been suspended under the provisions of this Article may take advantage of this Section. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 12.

Emergency. Effective Jan. 1, 1964.

Payments sufficient to satisfy requirements

Sec. 15. Judgments herein referred to shall, for the purpose of this Act only, be deemed satisfied:

1. When Ten Thousand Dollars (\$10,000) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;
2. When, subject to such limit of Ten Thousand Dollars (\$10,000) because of bodily injury to or death of one person, the sum of Twenty Thousand Dollars (\$20,000) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two (2) or more persons as the result of any one accident; or
3. When Five Thousand Dollars (\$5,000) has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident;

Provided, however, payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this Section. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 13.

Emergency. Effective Jan. 1, 1964.

Suspension of registration for all vehicles; duration; subsequent proof of financial responsibility

Sec. 17. (a) Whenever the Department, under any law of this State, suspends or revokes the license of any person upon receiving record of

a conviction or a forfeiture of bail, the Department shall also suspend the registrations for all motor vehicles registered in the name of such person, and whenever the Department shall receive record of a plea of guilty to any offense the conviction for which the Department is required to suspend or revoke the license of any person, the Department shall immediately suspend the registrations for all motor vehicles registered in the name of such person, except that the Department shall not suspend any such registrations, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person.

(b) Whenever the Department under any law of this State, suspends or revokes the license of any person upon receiving record of a conviction or suspends the registrations of any person upon receiving record of a plea of guilty, and such person was not the owner of the motor vehicle used at the time of the violation resulting in the conviction or the plea of guilty, the Department shall also suspend the license and all registrations in the name of the owner of the motor vehicle so used, if such vehicle was operated with such owner's permission or consent at the time of the violation unless such owner has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by any such person.

(c) Licenses and registrations suspended or revoked under this Section shall remain suspended or revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person until permitted under the Motor Vehicle Laws of this State and not then unless and until he shall give and thereafter maintain proof of financial responsibility.

(d) If a person is not licensed but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for (or pleads guilty to any such offense) any offense requiring the suspension or revocation of license, or for operating a motor vehicle upon the highways without being licensed to do so, or for operating an unregistered motor vehicle upon the highways, no license shall thereafter be issued to such person and no motor vehicle shall continue to be registered or thereafter be registered in the name of such person until he shall give and thereafter maintain proof of financial responsibility.

(e) Whenever the Department suspends or revokes a nonresident's operating privilege by reason of a conviction, forfeiture of bail or a plea of guilty, such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 14.

Emergency. Effective Jan. 1, 1964.

Motor vehicle liability policy defined

Sec. 21. (a) A "motor vehicle liability policy" as said term is used in this Act shall mean an owner's or an operator's policy of liability insurance, certified as provided in Section 19 or Section 20 as proof of financial responsibility, and issued, except as otherwise provided in Section 20, by an insurance company duly authorized to write motor vehicle liability insurance in this State, to or for the benefit of the person named therein as insured. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 15.

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

(b) Such owner's policy of liability insurance:

1. Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

2. Shall pay on behalf of the insured named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, all sums which the insured shall become legally obligated to pay as damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: Ten Thousand Dollars (\$10,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, Twenty Thousand Dollars (\$20,000) because of bodily injury to or death of two (2) or more persons in any one accident, and Five Thousand Dollars (\$5,000) because of injury to or destruction of property of others in any one accident. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 15.

Emergency. Effective Jan. 1, 1964.

Money or securities as proof

Sec. 25. (a) Proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with him Twenty-five Thousand Dollars (\$25,000) in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of Twenty-five Thousand Dollars (\$25,000). The State Treasurer shall not accept any such deposit and issue a certificate therefor and the Department shall not accept such certificate, unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(b) Such deposit shall be held by the State Treasurer to satisfy, in accordance with the provisions of this Act, any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 16.

Emergency. Effective Jan. 1, 1964.

Other proof may be required

Sec. 28. Whenever any proof of financial responsibility filed under the provisions of this Act no longer fulfills the purposes for which required, the Department shall for the purpose of this Act, require other proof as required by this Act and shall suspend the license and all registrations or any nonresident's operating privilege pending the filing of such other proof. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 17.

Emergency. Effective Jan. 1, 1964.

Duration of proof—when proof may be cancelled or returned

Sec. 29. The Department shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the Department

shall direct and the State Treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this Act as proof of financial responsibility, or the Department shall waive the requirement of filing proof, in any of the following events:

1. At any time after five (5) years from the date such proof was required when, during the five-year period preceding the request, the Department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom such proof was furnished; or

2. In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

3. In the event the person who has given proof surrenders his license and registration to the Department;

Provided, however, that the Department shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has, within two (2) years immediately preceding such request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the Department.

Whenever any person whose proof has been cancelled or returned under Subdivision 3 of this Section applies for a license or registration within a period of five (5) years from the date proof was originally required, any such application shall be refused unless the applicant shall re-establish such proof for the remainder of such five-year period. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 18.

Emergency. Effective Jan. 1, 1964.

Surrender of license and registration

Sec. 31. Any person whose license or registration shall have been suspended as herein provided, or whose policy of insurance or bond, when required under this Act, shall have been cancelled or terminated, or who shall neglect to furnish other proof upon request of the Department shall immediately return his license and registration to the Department. If any person shall fail to return to the Department the license or registration as provided herein, the Department shall forthwith direct any peace officer to secure possession thereof and to return the same to the Department, and the Department shall send a certified copy of the act or order of the Department requiring the return of the license or registration to the sheriff of the county of the person's last known address. The sheriff or his deputy shall immediately upon receipt of the certified copy secure possession of the license or registration and return the same to the Department. The director of the Department of Public Safety or a person designated by him shall file a complaint in any court of competent jurisdiction under Subsection (d) of Section 32 against any person who he has reason to believe

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

has wilfully failed to return license or registration as required herein. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 19.

Emergency. Effective Jan. 1, 1964.

Other violations—penalties

Sec. 32.

(b) Any person who gives information required in a report or otherwise as provided for in Section 4, knowing or having reason to believe that such information is false, or who shall forge or, without authority, sign any evidence of proof of financial responsibility, or who files or offers for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned for not more than one year, or both. As amended Acts 1963, 58th Leg., p. 1320, ch. 506, § 20.

(f) Any person who is required to maintain proof of financial responsibility under this Act and who, during the period financial responsibility is required to be maintained, drives any motor vehicle owned by him upon any highway or knowingly permits any motor vehicle owned by him to be operated by another upon any highway, except as permitted under this Act, when proof of financial responsibility is not in force, shall be fined not more than Five Hundred Dollars (\$500) or imprisoned not exceeding six (6) months, or both. Added Acts 1963, 58th Leg., p. 1320, ch. 506, § 21.

(g) Any case now or hereafter pending on the docket of any court involving prosecution under any provision of this Act shall be given precedence on the docket of such court and prosecution shall proceed with all due diligence. Added Acts 1963, 58th Leg., p. 1320, ch. 506, § 22.

Emergency. Effective Jan. 1, 1964.

Art. 6701j. Texas Traffic Safety Act of 1957

Members designated by governor; executive committee

Sec. 4. Members of the Texas Traffic Safety Council shall be designated by the Governor, except that there shall be an executive committee composed of the Governor as chairman, the Director of the Department of Public Safety as vice-chairman, the State Highway Engineer, one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, the Commissioner of Education and the Director of the Department of Public Welfare. The executive committee shall determine matters of policy and procedure when the Council is not in session. No person shall receive compensation or salary for his service as a member of the Council. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 10.

Effective 90 days after May 24, 1963, date of adjournment.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

Ark. 6701k. Vehicle equipment safety commission

Creation of commission; composition

Section 1. There is hereby created within the Governor's office a commission to be known as the "Vehicle Equipment Safety Commission." Said commission shall be composed of such employees as are, in the opin-

ion of the Governor, necessary to carry out the provisions of this Act, and shall furnish from among its members the representation for the State of Texas on the Vehicle Equipment Safety Commission established by the Vehicle Equipment Safety Compact.

Adherence to safety compact agreements

Sec. 2. The Governor is hereby authorized to declare the adherence of this state to safety compact agreements with any state in order to:

(1) Promote uniformity in regulation of and standards for vehicle equipment.

(2) Secure uniformity of law and administrative practice in vehicular regulation and related safety standards to permit incorporation of desirable equipment changes in vehicles in the interest of greater traffic safety.

(3) To provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes.

Safety compact agreement; regulations relating to vehicle equipment safety; provisions of compact

Sec. 3. The safety compact agreement authorized in Section 2 of this Act shall provide for the adoption by this state of rules, regulations or codes relating to vehicle equipment safety in the manner contemplated by Article V subsection (e) of the Vehicle Equipment Safety Compact, and shall provide substantially the following:

VEHICLE EQUIPMENT SAFETY COMPACT

ARTICLE I

Findings and Purposes

(a) The party states find that:

(1) Accidents and deaths on their streets and highways present a very serious human and economic problem with a major deleterious effect on the public welfare.

(2) There is a vital need for the development of greater interjurisdictional cooperation to achieve the necessary uniformity in the laws, rules, regulations and codes relating to vehicle equipment, and to accomplish this by such means as will minimize the time between the development of demonstrably and scientifically sound safety features and their incorporation into vehicles.

(b) The purposes of this compact are to:

(1) Promote uniformity in regulation of and standards for equipment.

(2) Secure uniformity of law and administrative practice in vehicular regulation and related safety standards to permit incorporation of desirable equipment changes in vehicles in the interest of greater traffic safety.

(3) To provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in subdivision (a) of this Article.

(c) It is the intent of this compact to emphasize performance requirements and not to determine the specific detail of engineering in the manufacture of vehicles or equipment except to the extent necessary for the meeting of such performance requirements.

ARTICLE II

Definitions

As used in this compact:

(a) "Vehicle" means 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) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(c) "Equipment" means any part of a vehicle or any accessory for use thereon which affects the safety of operation of such vehicle or the safety of the occupants.

ARTICLE III

The Commission

(a) There is hereby created an agency of the party states to be known as the "Vehicle Equipment Safety Commission" hereinafter called the commission. The commission shall be composed of one commissioner from each party state who shall be appointed, serve and be subject to removal in accordance with the laws of the state which he represents. If authorized by the laws of his party state, a commissioner may provide for the discharge of his duties and the performance of his functions on the commission, either for the duration of his membership or for any lesser period of time, by an alternate. No such alternate shall be entitled to serve unless notification of his identity and appointment shall have been given to the commission in such form as the commission may require. Each commissioner, and each alternate, when serving in the place and stead of a commissioner, shall be entitled to be reimbursed by the commission for expenses actually incurred in attending commission meetings or while engaged in the business of the commission.

(b) The commissioners shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners, or their alternates, are present.

(c) The commission shall have a seal.

(d) The commission shall elect annually, from among its members, a chairman, a vice-chairman and a treasurer. The commission may appoint an Executive Director and fix his duties and compensation. Such Executive Director shall serve at the pleasure of the commission, and together with the Treasurer shall be bonded in such amount as the commission shall determine. The Executive Director also shall serve as secretary. If there be no Executive Director, the commission shall elect a Secretary in addition to the other officers provided by this subdivision.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the Executive Director with the approval of the commission, or the commission if there be no Executive Director, shall appoint, remove or discharge such personnel as may be necessary

for the performance of the commission's functions, and shall fix the duties and compensation of such personnel.

(f) The commission may establish and maintain independently or in conjunction with any one or more of the party states, a suitable retirement system for its full time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional program of employee benefits as may be appropriate.

(g) The commission may borrow, accept or contract for the services of personnel from any party state, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party states or their subdivision.

(h) The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency and may receive, utilize and dispose of the same.

(i) The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(j) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states. The bylaws shall provide for appropriate notice to the commissioners of all commission meetings and hearings and the business to be transacted at such meetings or hearings. Such notice shall also be given to such agencies or officers of each party state as the laws of such party state may provide.

(k) The commission annually shall make to the Governor and Legislature of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendations as may have been issued by the commission. The commission may make such additional reports as it may deem desirable.

ARTICLE IV

Research and Testing

The Commission shall have power to:

(a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in equipment and related fields.

(b) Recommend and encourage the undertaking of research and testing in any aspect of equipment or related matters when, in its judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Contract for such equipment research and testing as one or more governmental agencies may agree to have contracted for by the commission, provided that such governmental agency or agencies shall make available the funds necessary for such research and testing.

(d) Recommend to the party states changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations or codes which would promote effective governmental action or coordination in the prevention of equipment-related highway accidents or the mitigation of equipment-related highway safety problems.

ARTICLE V

Vehicular Equipment

(a) In the interest of vehicular and public safety, the commission may study the need for or desirability of the establishment of or changes in performance requirements or restrictions for any item of equipment. As a result of such study, the commission may publish a report relating to any item or items of equipment, and the issuance of such a report shall be a condition precedent to any proceedings or other action provided or authorized by this Article. No less than sixty days after the publication of a report containing the results of such study, the commission upon due notice shall hold a hearing or hearings at such place or places as it may determine.

(b) Following the hearing or hearings provided for in subdivision (a) of this Article, and with due regard for standards recommended by appropriate professional and technical associations and agencies, the commission may issue rules, regulations or codes embodying performance requirements or restrictions for any item or items of equipment covered in the report, which in the opinion of the commission will be fair and equitable and effectuate the purposes of this compact.

(c) Each party state obligates itself to give due consideration to any and all rules, regulations and codes issued by the commission and hereby declares its policy and intent to be the promotion of uniformity in the laws of the several party states relating to equipment.

(d) The commission shall send prompt notice of its action in issuing any rule, regulation or code pursuant to this Article to the appropriate motor vehicle agency of each party state and such notice shall contain the complete text of the rule, regulation or code.

(e) If the constitution of a party state requires, or its Statutes provide, the approval of the Legislature by appropriate resolution or act may be made a condition precedent to the taking effect in such party state of any rule, regulation or code. In such event, the commissioner of such party state shall submit any commission rule, regulation or code to the Legislature as promptly as may be in lieu of administrative acceptance or rejection thereof by the party state.

(f) Except as otherwise specifically provided in or pursuant to subdivisions (e) and (g) of this Article, the appropriate motor vehicle agency of a party state shall in accordance with its constitution or procedural laws adopt the rule, regulation or code within six months of the sending of the notice, and, upon such adoption, the rule, regulation or code shall have the force and effect of law therein.

(g) The appropriate motor vehicle agency of a party state may decline to adopt a rule, regulation or code issued by the commission pursuant to this Article if such agency specifically finds, after public hearing on due notice, that a variation from the commission's rule, regulation or code is necessary to the public safety, and incorporates in such finding the reasons upon which it is based. Any such finding shall be subject to review by

such procedure for review of administrative determinations as may be applicable pursuant to the laws of the party state. Upon request, the commission shall be furnished with a copy of the transcript of any hearings held pursuant to this subdivision.

ARTICLE VI

Finance

(a) The commission shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the Legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations under any such budget shall be apportioned among the party states as follows: one-third in equal shares, and the remainder in proportion to the number of motor vehicles registered in each party state. In determining the number of such registrations, the commission may employ such source or sources of information as, in its judgment present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning vehicular registrations.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under Article III(h) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under Article III(h) hereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its rules. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become a part of the annual reports of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VII

Conflict of Interest

(a) The commission shall adopt rules and regulations with respect to conflict of interest for the commissioners of the party states, and their al-

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

ternates, if any, and for the staff of the commission and contractors with the commission to the end that no member or employee or contractor shall have a pecuniary or other incompatible interest in the manufacture, sale or distribution of motor vehicles or vehicular equipment or in any facility or enterprise employed by the commission, or in its behalf, for testing, conduct of investigations or research. In addition to any penalty for violation of such rules and regulations as may be applicable under the laws of the violator's jurisdiction of residence, employment or business, any violation of a commission rule or regulation adopted pursuant to this Article shall require the immediate discharge of any violating employee and the immediate vacating of membership, or relinquishing of status as a member on the commission by any commissioner or alternate. In the case of a contractor, any violation of any such rule or regulation shall make any contract of the violator with the commission subject to cancellation by the commission.

(b) Nothing contained in this Article shall be deemed to prevent a contractor for the commission from using any facilities subject to his control in the performance of the contract even though such facilities are not devoted solely to work of or done on behalf of the commission; nor to prevent such a contractor from receiving remuneration or profit from the use of such facilities.

ARTICLE VIII

Advisory and Technical Committees

The commission may establish such advisory and technical committees as it may deem necessary, membership on which may include private citizens and public officials, and may cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities.

ARTICLE IX

Entry into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any six or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a Statute repealing the same, but no such withdrawal shall take effect until one year after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applica-

bility thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. Acts 1963, 58th Leg., p. 354, ch. 134.

Effective 90 days after May 24, 1963, date of adjournment.

Interstate cooperation, see art. 4413b—1.

CHAPTER TWO—ESTABLISHMENT OF COUNTY ROADS

Art. 6716—1. The Optional County Road Law of 1947

Salaries of county road engineers in counties of 600,000 to 900,000 population, see art. 3912j.

CHAPTER FIVE—BRIDGES AND FERRIES

Art. 6795b—1. Causeways, bridges, and tunnels authorized in Gulf Coast counties of 50,000 or more

Bond issue to refund outstanding causeway revenue bonds, see art. 795a.

CHAPTER SIX—PARTICULAR COUNTIES, LAW RELATING TO

Art. 6812b. Counties of 198,000 to 400,000 population

Speed of vehicles in parks of counties bordering Gulf of Mexico, see Vernon's Ann. P.C. art. 827g.

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

TITLE 117—SALARIES

Art.	Art.
6813b. Salaries of state officers and employees for biennium; exceptions [New].	6819a—33. Additional compensation of district court judge of 128th Judicial District [New].
6819a—19c. Judges of district courts in counties of not less than 600,000 nor more than 800,000 [New].	6819a—34. Additional compensation of district court judges of 72nd, 99th and 140th Judicial Districts [New].
6819a—23a. Additional compensation of district court judge of 49th Judicial District [New].	6819a—35. Additional compensation of district court judges of 85th and 13th Judicial Districts [New].
6819a—31. Payments to defray expenses of district court judge of 121st Judicial District [New].	6819a—36. Additional compensation of district court judges of 47th and 108th Judicial Districts [New].
6819a—32. Additional compensation of district court judge of 64th Judicial District [New].	

Art. 6813b. Salaries of state officers and employees for biennium; exceptions

Section 1. The salaries of all State officers and all State employees, except the salaries of the District Judges and other compensation of District Judges, shall be for the period beginning September 1, 1963, and ending August 31, 1965, in such sums or amounts as may be provided for by the Legislature in the General Appropriations Act.¹ It is specifically declared to be one of the intents hereof that the Legislature shall also fix the amount of supplemental salaries hereafter, out of court fees and receipts, to be paid to the clerks and other employees of the Courts of Civil Appeals, the Supreme Court and the Court of Criminal Appeals. It is further provided that in instances where the General Appropriation Act does not specify or regulate the salaries or compensation of a State official or employee, the law specifying or regulating the salary or compensation of such official or employee is not suspended by this Act.

Sec. 2. All laws and parts of laws fixing the salaries of all State officers and employees, saving only the exceptions specified in Section 1 of this Act and the Position Classification Act of 1961² (Chapter 123, Acts, 1961, Fifty-seventh Legislature, Regular Session), are hereby specifically suspended insofar as they are in conflict with this Act. It is specifically declared to be one of the intents hereof that any and all laws authorizing payment of supplemental salaries from court receipts and fees to clerks and other employees of the Courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals, are suspended insofar as they are in conflict with this Act. Acts 1963, 58th Leg., p. 947, ch. 375.

¹ Acts 1963, 58th Leg., p. 1393, ch. 525.

² Article 6252—11.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6819a—12a. Salaries of District Judges in counties of 325,000 to 350,000

In the 109th Judicial District, the District Judge may receive annually, payable in monthly installments, a salary to be fixed by the Commissioners Court of each county, to be paid by said county out of the General

Fund thereof, as compensation for all judicial and administrative services now rendered by said Judge, and any additional judicial or administrative services hereafter to be assigned to said Judge, in addition to all salaries paid or hereafter to be paid to said Judge by the State of Texas, out of state revenues; provided, however, that the salary herein authorized to be paid by any County Commissioners Court to any Judge shall not exceed the sum of Eighteen Hundred Dollars (\$1800.00) per annum. As amended Acts 1963, 58th Leg., p. 623, ch. 229, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6819a—19c. Judges of district courts in counties of not less than 600,000 nor more than 800,000

Section 1. In any county in this State having a population of not less than six hundred thousand (600,000) nor more than eight hundred thousand (800,000), according to the last preceding Federal Census, and having eight (8) or more district courts, the judges of the several district courts of such counties shall receive, in addition to the salary paid by the State to them and to other district judges of this State, a sum of money, to be approved by the Commissioners Court of said counties, of not less than Six Thousand Dollars (\$6,000) nor more than Eight Thousand Dollars (\$8,000) annually, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of such counties, for all services rendered to said counties and for performing administrative services. The Commissioners Court of said counties shall make proper budget provisions for the payment thereof. Any district judge of the State who may be assigned to sit for the judge of any district court in such counties under the provisions of Article 200a, Revised Civil Statutes, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds in an amount not to exceed the difference between the pay of such visiting judge from all sources and that pay received from all sources by district judges in the counties affected by the provisions of the Act, such amount to be paid by the county upon approval of the presiding judge in which said court is located. Acts 1963, 58th Leg., p. 466, ch. 165.

Emergency. Effective May 14, 1963.

Acts 1963, 58th Leg. p. 466, ch. 165, § 2, provided: "This Act shall be cumulative

of existing laws, and any laws in conflict herewith are repealed to the extent of the conflict only."

Art. 6819a—23a. Additional compensation of district court judge of 49th Judicial District

Section 1. In addition to the compensation provided by law and paid by the State, the Commissioners Court of Jim Hogg County is hereby authorized to pay the District Judge of the 49th Judicial District, for additional services rendered to Jim Hogg County and for performing additional administrative duties, a reasonable sum not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation now paid or authorized to be paid the District Judge of the 49th Judicial District. Acts 1963, 58th Leg., p. 1006, ch. 412.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act authorizing the Commissioners Court of Jim Hogg County to supplement

the salary of the District Judge of the 49th Judicial District of Texas, making other provisions relating thereto; and declaring an emergency. Acts 1963, 58th Leg., p. 1006, ch. 412.

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

Art. 6819a—28. Additional compensation of district court judges of 10th, 56th and 122nd Judicial Districts

In addition to the compensation paid by the State of Texas to District Judges, the Commissioners Court of Galveston County shall pay to the District Judges of the 10th Judicial District, the 56th Judicial District and the 122nd Judicial District, respectively, for services rendered to Galveston County for performing administrative duties, the sum of Six Thousand (\$6,000.00) Dollars annually to each of the Judges of said District Courts, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of Galveston County; provided that no District Judge shall receive from any county fund as supplemental pay to his salary from the state, a sum in excess of Six Thousand (\$6,000.00) Dollars per annum. The Commissioners Court of Galveston County shall make proper budget provisions for the payment thereof. Acts 1961, 57th Leg., p. 69, ch. 41, § 1, as amended Acts 1962, 57th Leg., 3rd C.S., p. 107, ch. 36 § 1.

Effective 90 days after Feb. 1, 1962, date of adjournment.

Art. 6819a—31. Payments to defray expenses of district court judge of 121st Judicial District

Section 1. In addition to compensation provided by law and paid by the State, the Commissioners Courts of Cochran, Hockley, Terry, and Yoakum Counties are hereby authorized to pay the District Judge of the 121st Judicial District for telephone, meals, travel, and lodging expenses incurred by him in serving the Counties of Cochran, Hockley, Terry, and Yoakum.

Sec. 2. The total amount authorized to be paid by Section 1 of this Act shall not exceed Four Thousand, Eight Hundred Dollars (\$4,800) per annum, and none of these Commissioners Courts shall pay more than One Thousand, Two Hundred Dollars (\$1,200) per annum toward the total amount authorized herein. Acts 1963, 58th Leg., p. 13, ch. 11.

Emergency. Effective March 7, 1963.

Title of Act:

An Act authorizing the Commissioners Courts of Counties within the 121st Judicial District to pay certain amounts to the Dis-

trict Judge of such District to defray certain necessary expenses; providing for severability; and declaring an emergency. Acts 1963, 58th Leg., p. 13, ch. 11.

Art. 6819a—32. Additional compensation of district court judge of 64th Judicial District

In addition to the compensation provided by law and paid by the State, the Commissioners Court of Castro, Hale or Swisher County, or any or all of said counties, are hereby authorized to pay the District Judge of the 64th Judicial District, for services rendered to such counties and for performing administrative duties, a reasonable sum not to exceed Three Thousand Dollars (\$3,000) per annum. Such sum may be apportioned by the three (3) counties and shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 64th Judicial District. The total maximum additional compensation allowed under this Act shall be Three Thousand Dollars (\$3,000). Acts 1963, 58th Leg., p. 420, ch. 145, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Title of Act:

An Act authorizing the Commissioners Courts of Castro, Hale and Swisher Coun-

ties to pay the District Judge of the 64th Judicial District compensation in addition to the compensation paid by the State; and declaring an emergency. Acts 1963, 58th Leg., p. 420, ch. 145.

Art. 6819a—33. Additional compensation of district court judge of 128th Judicial District

In addition to the compensation provided by law and paid by the state, the Commissioners Court of Orange County is hereby authorized to pay the District Judge of the 128th Judicial District, for services rendered to the county and for performing administrative duties, a reasonable sum not to exceed Six Thousand Dollars (\$6,000) per annum. Such sum shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 128th Judicial District. Acts 1963, 58th Leg., p. 446, ch. 159, § 1.

Emergency. Effective May 14, 1963.

Title of Act:

An Act authorizing the Commissioners Court of Orange County to pay the District Judge of the 128th Judicial District compensation in addition to the compensation paid by the state; and declaring an emergency.

Art. 6819a—34. Additional compensation of district court judges of 72nd, 99th and 140th Judicial Districts

Section 1. (a) The Commissioners Court of Lubbock County shall pay to each of the Judges of the 99th and 140th Judicial Districts, for services rendered in performing administrative duties in Lubbock County, the sum of Thirty-five Hundred Dollars (\$3,500) annually. The sum provided for herein shall be paid in equal monthly installments out of the general fund or officers salary fund of Lubbock County and the Commissioners Court of Lubbock County shall make proper budget provisions therefor.

(b) The Commissioners Courts of Lubbock and Crosby Counties shall pay to the Judge of the 72nd Judicial District, for services rendered in performing administrative duties therein, the sum of Thirty-five Hundred Dollars (\$3,500) annually. The sum provided for herein shall be paid in equal monthly installments out of the general fund or officers salary fund of Lubbock and Crosby Counties as apportioned by the two (2) counties and the Commissioners Courts of Lubbock and Crosby Counties shall make proper budget provisions therefor.

Sec. 2. The compensation provided for in Section 1 shall be in addition to the compensation provided by law and paid by the State of Texas to District Judges and all other compensation now paid or authorized to be paid to the District Judges of the 72nd, 99th, and 140th Judicial Districts. Acts 1963, 58th Leg., p. 763, ch. 290.

Emergency. Effective May 30, 1963.

Art. 6819a—35. Additional compensation of district court judges of 85th and 13th Judicial Districts

Section 1. In addition to the compensation provided by law and paid by the state, the Commissioners Court of Brazos County shall pay the district judge of the 85th Judicial District, Four Thousand Dollars (\$4,000) per annum for performing the duties of judge of the juvenile court.

Sec. 2. In addition to the compensation provided by law and paid by the state, the Commissioners Court of Navarro County shall pay the district judge of the 13th Judicial District, Four Thousand Dollars (\$4,000) per annum for performing the duties of judge of the juvenile court. Acts 1963, 58th Leg., p. 916, ch. 347.

Effective 90 days after May 24, 1963, date of adjournment.

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

Art. 6819a—36. Additional compensation of district court judges of 47th and 108th Judicial Districts

Section 1. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Courts of Armstrong, Potter and Randall Counties, Texas, are hereby authorized to pay the District Judge of the 47th Judicial District for services rendered to Armstrong, Potter and Randall Counties, a reasonable sum not to exceed \$6,000 per annum; provided, however, that the salary herein authorized to be paid by any County Commissioners Court to the judge shall not exceed the sum of \$6,000 per annum; and provided that the total remuneration to be received by said judge under the provisions hereof shall not exceed the sum of \$6,000 per annum.

Sec. 2. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Court of Potter County, Texas, is hereby authorized to pay the District Judge of the 108th Judicial District, for services rendered to Potter County, Texas, a reasonable sum not to exceed \$6,000 per annum.

Sec. 3. The compensation provided for in Sections 1 and 2 shall be in addition to all other compensation paid or authorized to be paid to the judges of the 47th and 108th Judicial Districts.

Sec. 4. Any District Judge of the state who may be assigned to sit for the judge of the 47th or 108th Judicial District, under the provisions of Article 200a, Revised Civil Statutes, may, while so serving, in addition to his necessary expenses, receive additional compensation from county funds in an amount not to exceed the difference between the pay of such visiting judge from all sources and that pay received from all sources by district judges in the counties affected by the provisions of this Act, such amount to be paid by the county upon approval of the presiding judge in which said court is located. Acts 1963, 58th Leg., p. 925, ch. 355.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 6823a. Travel Regulations Act of 1959

Rules and regulations; standard expense account forms; reimbursement for travel by private conveyance; overpayment

Sec. 6.

(c). In determining transportation reimbursement for travel by private conveyance, the Comptroller shall base reimbursement on the mileage by shortest highway distance between point of origin and the destination via intermediate points at which official state business is conducted and other necessary mileage at points where official state business is conducted. In determining the amounts of reimbursement for transportation by personal car within the state, the Comptroller shall compute all distances in accordance with the latest official state highway map. As amended Acts 1963, 58th Leg., p. 1171, ch. 457, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 122—TAXATION

Art. 7083a. Allocation of revenue derived from certain occupations and gross receipts taxes; appropriations and allocations for certain funds; construction of farm to market roads

Sec. 2.

(4-b) After the above allocations and payments have been made from such Clearance Fund, beginning with the fiscal year September 1, 1959, and annually thereafter, there is hereby appropriated, allocated, transferred and credited, to a fund to be known as the Farm-to-Market Road Fund of the State Highway Department of the State of Texas the sum of Fifteen Million Dollars (\$15,000,000.00) per year for the construction of Farm-to-Market Roads by the State Highway Department within the State of Texas. The transfer, allocation and payment herein provided shall be made in equal installments during the months of April, May, June, July, and August of each fiscal year beginning with the fiscal year starting September 1, 1959, or as funds therefor become available.

The State Highway Department shall use the funds herein made available in conjunction with other funds available for such purposes so that not less than Twenty-Three Million Dollars (\$23,000,000.00) per year shall be used for the construction of additional miles of newly designated Farm-to-Market Roads, meaning roads in rural areas including feeder roads, secondary roads, school bus routes, rural mail routes, milk routes, etc., and not a part of the designated State Highway System or the designated Primary Federal Aid Highway System.

These funds shall be expended on a system of roads selected by the State Highway Department after consultation with the County Commissioners Courts of the counties of Texas relative to the most needed unimproved rural roads in the counties involved. The selections shall be made in a manner to insure equitable and judicious distribution of funds and work among the several counties of the state.

The general characteristics of the roads to be selected are as follows:

- a. The roads shall not be potential additions to the Federal Aid Primary Highway System;
- b. The roads shall serve rural areas primarily and shall connect farms, ranches, rural homes and sources of natural resources such as oil, mines, timber, etc., and/or water loading points, schools, churches and points of public congregation, including community developments and villages;
- c. The roads shall be capable of assisting in the creation of economic values in the areas served;
- d. The roads shall preferably serve as public school bus routes, or rural free delivery postal routes, or both;
- e. The roads shall be capable of early integration with the previously improved Texas Road System and at least one end should connect with a road already or soon to be improved on the State System of Roads.

The above allocation shall be made irrespective of any other subsection of this Section of this Article and Subsection (5) of Section 2 of this

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

Article shall not be applicable to the Farm-to-Market Road Fund. As amended Acts 1962, 57th Leg., 3rd C.S., p. 2, ch. 2, § 2.

Effective 90 days after Feb. 1, 1962, date of adjournment.

Section 1 of the Act of 1962 amended V.A.T.S. Tax.-Gen. art. 9.25 and section 3 made an appropriation.

CHAPTER FOUR—INTANGIBLE TAX BOARD

Art. 7098. [7407] State Tax Board

The State Tax Board shall be composed of the Comptroller, the Secretary of State and the State Treasurer. A record of the proceedings of said Board shall be kept at the state Capitol, and shall be open to the inspection of the public. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 8.

Effective 90 days after May 24, 1963, date of adjournment.

Reimbursement of citizen members of boards and commissions for expenses incurred when performing duties at official meetings, see art. 3183a, note.

CHAPTER SIX—PROPERTY SUBJECT TO TAXATION AND RENDITION

Art.

7150f. Property moving in interstate commerce [New].

Art. 7145. [7503] [5061] All property taxed

Condominium regime, home exemptions from property taxes, see art. 1301a, § 17.

Art. 7146. [7504] [5062] "Real property"

Condominium regime, home exemptions from property taxes, see art. 1301a, § 17.

Art. 7150. [7507] [5065] Exemption from taxation

Condominium regime, home exemptions from property taxes, see art. 1301a, § 17.

Art. 7150f. Property moving in interstate commerce

All property consigned to a consignee in this State from outside this State to be forwarded to a point outside this State, which is entitled under the tariffs, rules, and regulations approved by the Interstate Commerce Commission to be forwarded at through rates from the point of origin to the point of destination, if not detained within this State for a period of more than ninety (90) days, shall be deemed to be property moving in interstate commerce, and no such property shall be subject to taxation in this State; provided, that goods, wares and merchandise, whether or not moving on through rates, shall be deemed to move in interstate commerce, and not subject to taxation in this State if not detained more than nine (9) months where such goods, wares and merchandise are so held for assembly, storage, manufacturing, processing or fabricating purposes; providing further that personal property consigned for sale within this State must be assessed as any other personal property. Provided further, that all laws and parts of laws in

conflict herewith are hereby repealed to the extent of such conflict only. Acts 1963, 58th Leg., p. 576, ch. 208, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER SEVEN—ASSESSMENTS AND ASSESSORS**Art. 7212. [7570] [5124] Increasing or diminishing assessments; employment and remuneration of experts**

(A). The Boards of Equalization shall have the power and it is made their official duty to supervise the assessment of their respective counties and if satisfied that the valuation of such 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 the said Board with a 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, 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 in the preceding Article and their action in such case or cases shall be final; provided, however, the Commissioners Court of any county may employ an individual, firm or corporation deemed to have special skill and experience to compile taxation data for its use while sitting as a Board of Equalization and to provide for the payment of the compensation for such professional services out of the proper fund or funds of the county.

(B). To pay any contractual obligation to be incurred for professional services under the provisions hereof, the Commissioners Courts are hereby authorized to issue time warrants payable from the general fund of the county in the manner provided by the Bond and Warrant Law of 1931; provided, however, that warrants so issued shall mature within six (6) years from their respective dates. As amended Acts 1963, 58th Leg., p. 1256, ch. 481, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 122A—TAXATION—GENERAL

CHAPTER 1—GENERAL PROVISIONS

Repeal or Modification

The provisions of Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, § 1, codified as V.A.T.S. Taxation—General, Title 122A, arts. 1.01 to 24.01, are repealed or modified by Acts 1963, 58th Leg., p. 134, ch. 81, § 9 to the extent of conflict with Acts 1963, 58th Leg., p. 134, ch. 81, §§ 1-7, which amend the Texas Banking Code of 1943, Vernon's Ann.Civ.St. arts. 342-204, 342-304, 342-305, 342-504, 342-903 and 342-908, and which add art. 342-509a thereto. See, note, under art. 1.01.

Art. 1.01 Applicability of Standard Rules of Construction

Acts 1963, 58th Leg., p. 134, ch. 81, § 9 provided: "All laws or parts of laws (including specifically the provisions of Chapter 24, Article I, Section 1, Acts of the Fifty-seventh Legislature, First Called Session, 1961, and the provisions of Chapter

1, Section 1, Acts of the Fifty-sixth Legislature, Third Called Session, 1959, as amended) which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

CHAPTER 2—POLL TAX

Art. 2.01. Poll tax

There shall be levied and collected from every person between the ages of twenty-one and sixty years on the first day of January of each year and resident within this state on that date, an annual state poll tax of one dollar and fifty cents, one dollar of which shall be for the benefit of the free schools and fifty cents for general revenue purposes; provided, however, that the fifty-cent portion of the tax for general revenue purposes shall not be levied and collected from persons insane or blind, those who have lost a hand or foot, those permanently disabled, and disabled veterans of foreign wars where such disability is forty per cent or more, or from members of the active militia of this state who are exempt therefrom under the provisions of Article 5840 and 5841 of the Revised Civil Statutes of Texas, 1925. The tax shall be collected and accounted for by the tax collector each year and appropriated as herein required. The tax shall be paid at any time between the first day of October and the thirty-first day of January following, both dates inclusive, and shall be paid in the county in which the taxpayer resides at the time of payment; and the person, when he pays it, shall be entitled to his poll tax receipt, even if his other taxes are unpaid. No county shall levy a poll tax; but each county may levy a fee of not more than twenty-five cents for collecting the state poll tax, such fee to be paid to the tax collector at the time the poll tax is paid. Except as otherwise provided in Section 75 of the Election Code of Texas (Article 7.10, Vernon's Texas Election Code), the county fees shall be deposited in the county treasury for general revenue purposes of the county and shall not be deemed to be fees of office or be retained by the tax collector, regardless of whether the tax collector is compensated on a fee basis or on a salary basis. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 21.

Effective 90 days after May 24, 1963, date of adjournment.

Savings Provision

Acts 1963, 58th Leg., p. 1103, ch. 430, § 4, which repealed V.A. T.S. Election Code, articles 5.09 to 5.24, relating to the poll tax, further provided that the repeal of article 5.09 should not affect liability for payment of a poll tax or the continued existence and force of this article.

False statements to procure poll tax receipt or exemption certificate, see Vernon's Ann.P.C. art. 200a.

CHAPTER 3—TAX ON PRODUCERS OF NATURAL GAS

Art. 3.01 Calculation of Tax

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

Art. 4.01. Definitions

(8) "Production" or "total oil produced" shall mean the total gross amount of oil 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 (a) by tank tables compiled to show one hundred percent (100%) of the full capacity of the tanks without deductions for coverage or losses in handling or (b) by meter or other measuring device which accurately determines the volume of "production" or "total oil produced." Allowances for any reasonable and bona fide deduction for basic sediment and water, and for correction of temperature to sixty degrees (60°) Fahrenheit will be allowed. If the amount of oil produced has been measured or determined by tank table compiled to show less than one hundred percent (100%) of the full capacity of tanks, then such amount shall be raised to a basis of one hundred percent (100%) for the purpose of the tax imposed by this Chapter. As amended Acts 1963, 58th Leg., p. 1136, ch. 441, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Use of metering devices for the measurement of oil, see note under art. 4.02.

Art. 4.02 Amount and Computation of Tax

(1) There is hereby levied an occupation tax on oil produced within this state of four and six-tenths cents (4.6¢) per barrel of forty-two (42) standard gallons. Said tax shall be based upon the total barrels of oil produced or salvaged from the earth or waters of this state without any deductions and shall be computed (a) by tank tables showing one hundred percent (100%) of production and exact measurements of contents or (b) by meter or by other measuring device which accurately determines the volume of "production" or "total oil produced." Provided, however, that the occupation tax herein levied on oil shall be four and six-tenths percent (4.6%) 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 for 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. As amended Acts 1963, 58th Leg., p. 1136, ch. 441, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 1136, ch. 441, which amended paragraph (8) of article 4.01 and this article, provided in section 3: "Nothing herein shall be construed to permit the use of metering devices for the measure-

ment of oil as set forth above without the express permission of the operator of the well or wells on which such metering device or devices are to be installed."

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

CHAPTER 5—OCCUPATION TAX ON SULPHUR PRODUCERS

Art. 5.01 Occupation Tax on Sulphur Producers, Amount of Tax

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 three cents (\$1.03) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter. As amended Acts 1963, 58th Leg., p. 83, ch. 52, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 83, ch. 52, § 2 provided: "Said tax shall be in lieu of the tax now levied on producers of sulphur by Article 5.01, Chapter 5, Title 122A, Taxation-General, Revised Civil Statutes of

Texas, which law and all other laws and parts of laws in conflict herewith are hereby repealed."

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

CHAPTER 6—MOTOR VEHICLE RETAIL SALES AND USE TAX

Chapter 6, Motor Vehicle Retail Sales and Use Tax, as enacted by Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, consisting of articles 6.01 to 6.12, was amended by Acts 1963, 58th Leg., p. 371, ch. 138, § 2 to read as now set out in articles 6.01 to 6.08.

DERIVATION TABLE

Showing derivation of provisions of Chapter 6 as amended by Acts 1963, 58th Leg., p. 371, ch. 138, § 2.

Present Article	Former Article	Present Article	Former Article
6.01	6.01, 6.03, 6.04, 6.06	6.05	6.08
6.02	6.02	6.06	6.09, 6.12
6.03	6.05	6.07	6.10
6.04	6.07	6.08	6.11

DISPOSITION TABLE

Showing disposition of provisions of Chapter 6 as amended by Acts 1963, 58th Leg., p. 371, ch. 138, § 2.

Former Article	Present Article	Former Article	Present Article
6.01	6.01	6.07	6.04
6.02	6.02	6.08	6.05
6.03	6.01	6.09	6.06
6.04	6.01	6.10	6.07
6.05	6.03	6.11	6.08
6.06	6.01	6.12	6.06

Art. 6.01. Imposition of Taxes

(1) There is hereby levied a tax upon every retail sale of every motor vehicle sold in this State, such tax to be equal to two per cent (2%) of the total consideration paid or to be paid for said motor vehicle.

(2) There is hereby levied a use tax upon every motor vehicle purchased at retail sale outside this State and brought into this State for use upon the public highways by any person, firm or corporation who is a resident of this State or who is domiciled or doing business in this State. The tax imposed by this subsection shall be equal to two per cent (2%) 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.

(3) There is hereby levied a use tax in the sum of Fifteen Dollars (\$15) upon any person making application for the initial certificate of title on a motor vehicle which was previously registered in his name in any

other State or foreign country. It is the purpose of this subsection to impose a use tax upon motor vehicles brought into this State by new residents of this State.

(4) There is hereby levied a tax in the sum of Five Dollars (\$5) upon any transaction involving the even exchange of two (2) motor vehicles which tax shall be paid by each party to the transaction.

(5) There is hereby levied a tax in the sum of Ten Dollars (\$10) upon any person who makes a gift of a motor vehicle to another person which tax shall be paid by the donee.

The taxes levied by or under this Chapter shall be in addition to any and all license fees and taxes levied by or under any other law of this State. As amended Acts 1963, 58th Leg., p. 371, ch. 138, § 2.

Effective July 1, 1963.

Acts 1963, 58th Leg., p. 371, ch. 138, § 1 amended Chapter 20; section 3 thereof amended article 12.21. Sections 5 to 7 of the amendatory act of 1963 provided:

"Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 6. This Act shall be effective from and after July 1, 1963.

"Sec. 7. All laws or parts of laws in conflict herewith are repealed to the extent of the conflict."

Savings Provisions. Acts 1963, 58th Leg., p. 371, ch. 138, § 4, provided:

"Sec. 4. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any

proper action concerning any such obligation, right, license, permit or penalty. Taxes incurred under any law repealed by this Act are an obligation within the meaning of this Section. In addition, any permit or license obtained under any law repealed by this Act shall remain effective for the term and under the conditions prescribed by the repealed law under which the permit or license was granted or issued.

"In addition to the application of this Act with respect to transactions occurring on and after the effective date hereof, the definitions, exemptions and other provisions hereof are intended to clarify the prior law (Chapter 24, Acts 1961, Fifty-seventh Legislature, First Called Session) and shall not be considered in construing or applying the prior law in such a manner as to cause or result in the imposition of any tax thereunder which would not have been imposed under the prior law in the absence of this Act."

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

Art. 6.02. Duties of Comptroller of Public Accounts

The Comptroller of Public Accounts shall have general supervision over the collection of the taxes imposed by this Chapter. He may establish rules and regulations for the determination of taxable value of motor vehicles and for the efficient administration of this Chapter. All County Tax Collectors and Assessors shall be furnished with such rules and regulations, and such rules and regulations shall be consistently applied to the determination of taxable value of each motor vehicle purchased in this State or taxable under the use tax levied by Article 6.01 of this Chapter. As amended Acts 1963, 58th Leg., p. 371, ch. 138, § 2.

Effective July 1, 1963.

Savings Provisions. See note set out under art. 6.01.

Art. 6.03. Title Definitions

The following words shall have the following meaning unless a different meaning clearly appears from the context.

(A) Sale. The term "sale" as herein used shall include installment 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) Retail Sale. The term "retail sale" 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) Motor Vehicle. 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, including trailers and semi-trailers. It shall not mean any device moved only by human power or used exclusively upon stationary rails or tracks and shall not include farm machinery or farm trailers or road-building machinery or any self-propelled vehicle used exclusively to move any of the three (3) immediately preceding vehicles.

(D) Total Consideration.

(1) The term "total consideration" as herein used shall mean the amount paid or to be paid for said motor vehicle and all accessories attached thereto at the time of sale, without any deduction on account of any of the following:

(a) The cost of the motor vehicle sold.

(b) The cost of material used, labor or service costs, interest paid, losses, or any other expenses.

(c) The cost of transportation of the motor vehicle prior to its sale or purchase.

(d) The amount of any manufacturers' or importers' excise tax imposed upon the motor vehicle by the United States.

(2) The term "total consideration" as herein used does not include any of the following:

(a) Cash discounts allowed on sale.

(b) Sales price of motor vehicle returned by customers when the full sales price is refunded either in cash or credit.

(c) The amount charged for labor or services rendered in installing, applying, remodeling or repairing the motor vehicle sold.

(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of motor vehicles under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

(e) The value of a motor vehicle taken by a seller in trade as all or a part of the consideration for sale of another motor vehicle.

(f) Charges for transportation of motor vehicle after sale. As amended Acts 1963, 58th Leg., p. 371, ch. 138, § 2.

Effective July 1, 1963.

Savings Provisions. See note set out under art. 6.01.

Art. 6.04. Collection of Taxes

The taxes levied in this Chapter 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 Article 6.01(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 registration of said motor vehicle, and the Tax Collector shall refuse to issue the registration license until the tax is paid. As amended Acts 1963, 58th Leg., p. 371, ch. 138, § 2.

Effective July 1, 1963.

Savings Provisions. See note set out under art. 6.01.

Art. 6.05. Affidavits and Sales Invoices as to Consideration, Sales Records

(1) The purchaser and seller shall make a joint affidavit setting forth the then value in dollars of the total consideration, whether in money or other things of value, received or to be received by the seller or his nominee in a retail sale. Where a transfer of title to a motor vehicle is made either as the result of an even exchange or of a gift, the two (2) principal parties to such a transaction shall make a joint affidavit setting forth the facts describing the nature of the transaction. In an even exchange no transfer of title shall be accomplished until the two (2) principal parties have paid a tax of Five Dollars (\$5) each to the Tax Assessor and Collector. Where any party to a sale, exchange, even exchange or gift is a corporation, the president, vice president, secretary, manager or other authorized officer of the corporation shall make the affidavit for the corporation. When any tax imposed by this Chapter is paid to the Tax Assessor and Collector, the person upon whom the tax is imposed by this Act shall file with the Tax Assessor and Collector the joint affidavit required by this Article. The Tax Collector and Assessor shall keep copies of the affidavits until they are called for by the Comptroller of Public Accounts or his representative for auditing.

(2) The seller shall keep complete records of each motor vehicle transferred by him at a retail sale including a true and complete copy of the invoice pertaining to the transaction described by such affidavit. Said invoice shall show the full price of the motor vehicle plus the itemized price of all accessories attached thereto. The record shall be retained by the seller at his principal office for at least four (4) years from the date of the transfer of the motor vehicle. All sales and supporting records of each seller shall be open to inspection and audit by the Comptroller of Public Accounts or his authorized representative. Acts 1963, 58th Leg., p. 371, ch. 138, § 2.

Effective July 1, 1963.

Savings Provisions. See note set out under art. 6.01.

Art. 6.06. Penalties and Interest; Redetermination and Hearings

(1) If the Comptroller upon audit of the records of the seller shall determine that the amount of tax due on any transaction was incorrectly reported on the joint affidavit so that the tax actually paid was less than that actually due, the seller shall then be liable for the full amount of tax determined to be due plus a penalty of ten per cent (10%) of the amount of tax due and interest on the amount of tax due computed at the rate of six per cent (6%) per annum beginning sixty (60) days from the date on which the joint affidavit was executed. The Comptroller shall notify the seller in writing of his determination and the seller shall, within ten (10)

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days following the receipt of such notice, pay to the Comptroller the amount of back taxes, penalty and interest. The Comptroller shall promulgate rules and regulations under which the seller may petition for a redetermination of liability and shall grant the seller an oral hearing. The Comptroller may decrease or increase the amount of his determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the Comptroller at or before the hearing, in which case the seller shall be entitled to a thirty-day continuance of the hearing to allow him to obtain and produce further evidence applicable to the items upon which the increase is based.

(2) If any seller shall not keep and retain complete records for the space of four (4) years as provided in Article 6.05(2) he shall be deemed guilty of a misdemeanor and punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500). As amended Acts 1963, 58th Leg., p. 371, ch. 138, § 2.

Effective July 1, 1963.

Savings Provisions. See note set out under art. 6.01.

Art. 6.07. Receipts; Disposition of Collections

The Tax Assessor and Collector shall issue a receipt to the person paying the taxes imposed by this Chapter, making two (2) duplicate copies of the said receipt. The Comptroller of Public Accounts shall prescribe the form of the receipt. On the tenth day of each month, the Tax Assessor and Collector shall forward ninety-six and one-half per cent (96.5%) of the money collected from the taxes imposed by this Chapter to the Comptroller of Public Accounts, together with one duplicate copy of each receipt issued by him to persons paying the tax or fee imposed by this Chapter. The Tax Assessor and Collector shall retain one duplicate receipt as a permanent record in his office and shall retain three and one-half per cent (3.5%) of the taxes collected as fees of office, or to be paid into the officers' salary fund of the county as provided by General Law. As amended Acts 1963, 58th Leg., p. 371, ch. 138, § 2.

Effective July 1, 1963.

Savings Provisions. See note set out under art. 6.01.

Art. 6.08. Operation Without Payment of Tax

If any person shall knowingly operate any motor vehicle, such as defined in this Chapter, 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 day nor more than thirty (30) days or by both such fine and imprisonment. As amended Acts 1963, 58th Leg., p. 371, ch. 138, § 2.

Effective July 1, 1963.

Savings Provisions. See note set out under art. 6.01.

Arts. 6.09—6.12. Repealed by Amendment. Acts 1963, 58th Leg., p. 371, ch. 138, § 2. Eff. July 1, 1963

Savings Provisions. See note set out under art. 6.01.

CHAPTER 9—MOTOR FUEL (GASOLINE) TAX

Art. 9.02 Rate of Tax; Allowances for Handling and Evaporation

(2) The tax on one and one-half per cent ($1\frac{1}{2}\%$) of the taxable gallons of motor fuel sold or distributed in this state shall be allocated to the persons selling or distributing said motor fuel in this state which allocation or allowance shall be deducted by the distributor in the payment of the State of Texas of the taxes levied herein.

The above allocation or allowances shall be for ordinary evaporation and other handling losses, not provided for in this Chapter from the time of the first sale or distribution of motor fuel in this state until its ultimate delivery to the person using or consuming said motor fuel and for the expense of collecting, accounting for, and reporting the taxes collected thereon, and shall be apportioned among all persons selling, distributing or handling motor fuel in this state as follows:

I. One-half of one per cent ($\frac{1}{2}$ of 1%) to the distributor making the first sale or distribution of such motor fuel and paying the tax levied hereunder to the State of Texas;

II. One-half of one per cent ($\frac{1}{2}$ of 1%) to the wholesaler or jobber who pays the tax to a distributor on motor fuel purchased for resale or distribution to retailers; and

III. One-half of one per cent ($\frac{1}{2}$ of 1%) to the retailer or other person making a sale or distribution of such motor fuel to the person using or consuming said motor fuel.

In the distribution of motor fuel in this state if any person performs more than one (1) of the functions or activities referred to above (distributor, wholesaler, or jobber, and retailer), and he shall be entitled to the apportionment or allowance for each such function or activity, subject to the limitations prescribed for each such function or activity, and provided that the aggregate allowance shall never exceed the total amount authorized herein for all three functions or activities; provided further, if sales or distributions of motor fuel are made between wholesalers, jobbers, or distributors between the first sale made at the source of said motor fuel in Texas and its sale to the retailer, then the aggregate allotments shall never exceed one and one-half per cent ($1\frac{1}{2}\%$).

Nothing contained herein shall be construed as entitling any person using or consuming motor fuel in this state to any portion of said allocation or allowance.

Pursuant to rules and regulations to be prescribed by the Comptroller the allocation or allowance hereinabove provided shall be distributed to the persons entitled thereto as follows: (1) Every distributor who makes a first sale or distribution of motor fuel to a wholesaler, jobber, or another distributor, upon which said first sale or distribution the tax is required to be collected and paid over to this state shall, after setting out the tax separately on the manifest as required by this Chapter, deduct one per cent (1%) from the amount of such tax and the balance shall be the amount such distributor shall be entitled to collect from such purchaser; and (2) every wholesaler, jobber or distributor who makes a sale, resale, or distribution of motor fuel upon which the tax is required to be collected, to a retailer of said motor fuel shall, after setting out the tax separately on the manifest as required by this Chapter, deduct one-half of one per cent ($\frac{1}{2}$ of 1%) from the amount of such tax and the balance shall be the amount such wholesaler, jobber or distributor shall be entitled to collect

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from such purchaser. As amended Acts 1963, 58th Leg., p. 1114, ch. 432, § 1.

Effective Sept. 1, 1963.

Section 2 of the amendatory act of 1963 provided: "All laws or parts of laws that conflict herewith are, insofar as such conflict exists, hereby repealed and this Act shall prevail over any conflicting provision of law. However, all taxes, penalties and

interest, accruing to the State of Texas and all allocations made therefrom before the effective date of this Act shall be and remain valid obligations."

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

Art. 9.25 Enforcement Fund, Allocation of Revenue

Before any diversion or allocation of the motor fuel tax collected under the provisions of this Chapter is made, one per cent (1%) of the gross amount of said tax shall be set aside in the State Treasury in a special fund, subject to the use of the Comptroller in the administration and enforcement of the provisions of this Chapter, and so much of said proceeds of one per cent (1%) of the motor fuel tax paid monthly as may be needed in such administration and enforcement be and is hereby appropriated for said purpose. Any unexpended portion of said fund so specified shall, at the end of each fiscal year, revert (1) to the Highway Motor Fuel Tax Fund, and (2) to the funds prescribed in Section (6a) of Article 9.13, as provided in this Chapter, in proportion to the amounts originally derived from such respective sources. The same shall then be allocated as provided in Article 9.13 of this Chapter and Section (6a) thereof, and in this Article 9.25, in the proportions above prescribed.

Each month the Comptroller of Public Accounts, after making all deductions for exempt refund purposes and for the funds derived from "unclaimed refunds" as provided in Article 9.13 of this Chapter, and for the enforcement of the provisions of this Chapter, shall allocate and deposit the net remainder of the taxes collected under the provisions of this Chapter, as follows: one-fourth ($\frac{1}{4}$) of such tax shall go to, and be placed to the credit of, the Available Free School Fund; one-half ($\frac{1}{2}$) of such tax shall go to and be placed to the credit of the State Highway Fund for the construction and maintenance of the State Road System under existing laws; and from the remaining one-fourth ($\frac{1}{4}$) of such tax the Comptroller shall: (1) place to the credit of the County and Road District Highway Fund an amount determined by the Board of County and District Road Indebtedness and certified by the Board to the Comptroller of Public Accounts prior to August 31st of each year, for the fiscal year beginning September 1st each year, to be required in addition to any and all funds already on hand, for the payment by the Board of the principal, interest and sinking fund requirements for each year, on all bonds, warrants or other legal evidences of indebtedness heretofore issued by counties or defined road districts of this state, which mature on or after January 1, 1933, insofar as amounts of same were issued for and proceeds have been actually expended in the construction of roads that constituted and comprised a part of the system of designated state highways on September 17, 1932, or which subsequent to such date and prior to January 2, 1939, have been designated a part of the System of State Highways and declared by the Board of County and District Road Indebtedness prior to January 2, 1945, to be eligible to participate in the distribution of the moneys in the County and Road District Highway Fund under the provisions of existing laws; (2) for the fiscal year beginning September 1, 1951, and each fiscal year thereafter, the Comptroller shall place to the credit of the fund known as the County and Road District Highway Fund the sum of Seven Million, Three

Hundred Thousand Dollars (\$7,300,000.00), said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be allocated by the Board of County and District Road Indebtedness to all of the counties of Texas not later than September 15th of each year, through the Lateral Road Account, as provided under Subsection (h) of Section 6¹ of Chapter 324 of the General and Special Laws of the 48th Legislature, Regular Session, 1943, as amended by Section 1 of Chapter 319, Acts of the 50th Legislature, 1947; and (3) the Comptroller shall place to the credit of the State Highway Fund the remainder of such one-fourth ($\frac{1}{4}$) of such tax, said amount to be provided on the basis of equal monthly payments, payable on the first day of each calendar month, which sum shall be used by the State Highway Department for the construction and improvement of Farm-to-Market Roads having the same general characteristics as the roads eligible for construction under Subsection (4-b) of Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature, as amended.² During any fiscal year, under the terms of Subsection (4-b) of Section 2 of Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature, as amended, in which there shall be a valid, effective appropriation of Fifteen Million Dollars (\$15,000,000.00) in the Farm-to-Market Road Fund to the State Highway Department for the purpose of constructing Farm-to-Market Roads, the Highway Department may use up to one-half ($\frac{1}{2}$) the above remainder for the maintenance of Farm-to-Market Roads.

All receipts due the Available School Fund which are in the Highway Motor Fuel Tax Fund on August 31st of each fiscal year shall be credited to the Available School Fund on August 31st of each fiscal year. As amended Acts 1961, 57th Leg., p. 817, ch. 371, § 5; Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. V § 1; Acts 1962, 57th Leg., 3rd C.S., p. 2, ch. 2, § 1.

¹ Art. 6674q—7, subs. (h).

² Art 7083a, subs. (4-b).

Effective 90 days after Feb. 1, 1962, date of adjournment.

Section 2 of the Act of 1962 amended Vernon's Ann.Civ.St. art. 7083a(4-b) and section 3 made an appropriation.

CHAPTER 10—SPECIAL FUELS TAX

Art. 10.03 Levy of Tax

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

CHAPTER 12—FRANCHISE TAX

Art. 12.21. Additional Franchise Tax for Years Ending April 30, 1961; April 30, 1962; April 30, 1963; April 30, 1964; and April 30, 1965

(1) In addition to the franchise tax due and payable under Article 12.01 of this Chapter, there is hereby levied on all corporations paying a franchise tax under the provisions of Article 12.01 of this Chapter an additional franchise tax for the privilege of doing business in Texas in corporate form in the periods from May 1, 1960, to and including April 30, 1961, and from May 1, 1961, to and including April 30, 1962, and from May 1, 1962, to and including April 30, 1963, and from May 1, 1963, to and in-

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cluding April 30, 1964, and from May 1, 1964, to and including April 30, 1965, which additional franchise tax shall be computed by multiplying the tax due and payable under Article 12.01 of this Chapter for the aforesaid periods by 22.22 per cent.

(2) Corporations eligible to and electing to compute the franchise tax for which they are liable under the provisions of Article 12.19 of this Chapter shall, for the privilege of doing business in Texas in corporate form in the periods from May 1, 1960, to and including April 30, 1961, and from May 1, 1961, to and including April 30, 1962, and from May 1, 1962, to and including April 30, 1963, and from May 1, 1963, to and including April 30, 1964, and from May 1, 1964, to and including April 30, 1965, pay an additional franchise tax in accordance with the following schedule:

If Total Assets Are at Least	But Less Than	The Additional Tax Shall Be
\$ 0.00	\$ 20,000.00	\$ 7.50
20,000.00	40,000.00	12.00
40,000.00	60,000.00	20.00
60,000.00	80,000.00	30.00
80,000.00	90,000.00	40.00
90,000.00	110,000.00	45.00
110,000.00	120,000.00	50.00
120,000.00	130,000.00	55.00
130,000.00	140,000.00	60.00
140,000.00	150,000.00	65.00

(3) The additional franchise tax levied by this Article shall be paid at the same time, in the same manner, and subject to the same terms, penalties and conditions as the franchise tax that will become due and payable in the same periods under the provisions of this Chapter.

(4) The State Comptroller of Public Accounts shall have the right to make and promulgate such rules and regulations and to prescribe such forms as he deems necessary for the efficient and effective administration of the additional franchise tax levied by this Article.

(5) The additional franchise tax levied by this Article shall be cumulative of all other taxes imposed by this State.

(6) The additional franchise tax levied by this Article shall expire on April 30, 1965. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. II, § 2; Acts 1963, 58th Leg., p. 371, ch. 138, § 3.

Effective July 1, 1963.

Savings Provisions. Acts 1963, 58th Leg., p. 371, ch. 138, § 4, provided:

"Sec. 4. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty. Taxes incurred under any law repealed by this Act are an obligation within the meaning of this Section. In addition, any permit or license obtained under any law repealed by this Act

shall remain effective for the term and under the conditions prescribed by the repealed law under which the permit or license was granted or issued.

"In addition to the application of this Act with respect to transactions occurring on and after the effective date hereof, the definitions, exemptions and other provisions hereof are intended to clarify the prior law (Chapter 24, Acts 1961, Fifty-seventh Legislature, First Called Session) and shall not be considered in construing or applying the prior law in such a manner as to cause or result in the imposition of any tax thereunder which would not have been imposed under the prior law in the absence of this Act."

CHAPTER 14—INHERITANCE TAX

Art.

14.28 Exemptions Applicable to Non-Residents [New].

Art. 14.06. Class E—Foreign Bequest

If passing to or for the use of the United States, to or for the use of any other person or religious, educational or charitable organization or institution, or to any other person, corporation or association not included in any of the classes mentioned in the preceding portions of the original Act known as Chapter 29 of the General Laws of the Second Called Session of the Thirty-eighth Legislature, the tax shall be:

5%	on any value in excess of \$	500	and not exceeding \$	10,000
6%	on any value in excess of	10,000	and not exceeding	25,000
8%	on any value in excess of	25,000	and not exceeding	50,000
10%	on any value in excess of	50,000	and not exceeding	100,000
12%	on any value in excess of	100,000	and not exceeding	500,000
15%	on any value in excess of	500,000	and not exceeding	1,000,000
20%	on any value in excess of	1,000,000		

Provided, however, that this Article shall not apply on property passing to or for the use of the United States, or to or for the use of any religious, educational or charitable organization, incorporated, unincorporated or in the form of a trust, when such bequest, devise or gift is to be used within this State. The exemption from tax under the preceding provisions of this Article shall, without limiting its application under other appropriate circumstances, apply to all or so much of any bequest, devise or gift to or for the use of the United States, or a religious, educational or charitable organization, which is, in writing and prior to the payment of the tax, irrevocably committed for use exclusively within the State of Texas or transferred to a religious, educational or charitable organization for use exclusively within this State.

Provided, further, that if the property so passing is to or for the use of a religious, educational, or charitable organization which conducts its operations on a regional basis, one such region of which includes the State of Texas, or any part thereof, then a bequest, devise or gift to be used within such region shall be deemed to be used within this State. For purposes of this paragraph a region shall comprise not more than five contiguous states, either in whole or in part, one of which is the State of Texas. For purposes of this paragraph, a religious, educational, or charitable organization shall include, but not be limited to, a youth program of physical fitness, character development, and citizenship training or like program.

Provided, further, that this Article shall not apply to property passing to or for the use of any religious, educational or charitable organization, incorporated, unincorporated or in the form of a trust, if (either at the time the property passes or at any time prior to the payment of the tax) the laws of the jurisdiction under which such organization is organized or is operating provide an exemption from death tax of any character with respect to property passing (1) to or for the use of such an organization, or (2) to or for the use of such an organization organized or operating within the State of Texas, or (3) to or for the use of such an organization organized or operating within any other jurisdiction which grants a reciprocal exemption. For the purposes of this paragraph, jurisdiction

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means any state or territory of the United States or the District of Columbia. As amended Acts 1963, 58th Leg., p. 130, ch. 77, § 1.

Emergency. Effective April 29, 1963.

Art. 14.28. Exemptions Applicable to Non-Residents

The provisions of this Chapter shall not apply to money on deposit in any bank doing business in Texas or to shares or share accounts in any savings and loan association doing business in Texas owned by non-residents of Texas who are citizens of a foreign country and who are not engaged in business in Texas, or owned by non-resident citizens of the United States who reside in a foreign country and who are not engaged in business in Texas. Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 14-28 added Acts 1963, 58th Leg., p. 445, ch. 158, § 1.

Emergency. Effective May 14, 1963.

Acts 1963, 58th Leg., p. 445, ch. 158, § 2, provided: "The provisions of this Act shall apply in respect to a decedent dying before the effective date of this Act if the tax imposed by Chapter 14 of Title 122A, Taxa-

tion-General, Vernon's Texas Civil Statutes, has not been paid prior to the effective date of this Act, and shall also apply in respect to a decedent dying after the effective date of this Act."

CHAPTER 16—STOCK TRANSFER TAX**Art. 16.01. Stock Transfer Tax**

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, 3.3 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 3.3 cents on each hundred dollars or fraction thereof of the actual value of the certificates or shares; provided, however, that in no case shall the tax so imposed on any such sale or transfer be more than 3.3 cents on each share or certificate nor less than 3.3 cents on the sale or transfer. 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 Chapter; provided, however, no action shall be commenced or prosecuted after the expiration of one hundred and eighty (180) days from the effective date of this Act in regard to stock transfer taxes accruing on transfers of no-par shares of stock prior to such effective date. It is not intended by this Chapter 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 upon transfers or deliveries made pursuant to an order of the Federal Securities and Exchange Commission which specifies and itemizes the securities ordered by it to be delivered or transferred (provided that this exemption shall not apply to such transfers or deliveries made before the passage of this Act); nor upon record transfers following such transfers or deliveries; nor in respect to shares or certificates of stock or certificates of rights to stock, or certificates of deposit representing certificates of the character taxed by this Chapter, 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 Chapter shall be affixed and canceled; provided, however, that such bill or memorandum may be made in duplicate and the stamp provided for by this Chapter 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. As amended Acts 1963, 58th Leg., p. 1351, ch. 513, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER 17—STORES AND MERCANTILE ESTABLISHMENTS

Art.
17.11 Exclusions [New].

Art. 17.05 License Fees; Exemptions

(c) All those establishments, except religious bookstores, non-profit religious or charitable stores, or mercantile establishments owned and operated by religious or charitable organizations, or any place or places of business used by manufacturers, manufacturer's representatives, wholesalers or jobbers, solely as showrooms or display rooms for exhibiting merchandise and from which no deliveries or retail sales are made, or any grower, producer, itinerant retailer or wholesaler of agricultural food products who sells such produce in any stall or space rented or leased on a daily basis in a municipally owned or operated produce market, exempted from the above schedule by this Chapter shall file an application as required by Articles 17.02 and 17.04 of this Chapter. If they meet the requirements of this Chapter for exemption, they shall pay an exemption fee of Four Dollars (\$4) for one (1) store and Nine Dollars (\$9) for each additional store in excess of one (1). As amended Acts 1961, 57th Leg., p. 971, ch. 421, § 2; Acts 1963, 58th Leg., p. 919, ch. 350, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 17.11 Exclusions

A warehouse or storage place operated by a common carrier or carrier holding a certificate or permit from the Railroad Commission of Texas, shall not be considered a store or mercantile establishment under the terms of this Chapter 17, provided no sales are made by the operator therefrom except

(1) The sale of goods, wares or merchandise on which the storage costs are in default; and

(2) The sale of damaged or salvaged goods, wares or merchandise arising solely from the operation of the transportation business of the operator of such warehouse or storage place.

(3) The delivery of, sale and collection for goods, wares or merchandise (not owned by the operator) shipped through or stored with the operator of such warehouse or storage place shall not be considered a sale or distribution of goods, wares, or merchandise by the operator.

The warehouses, and/or storage places, sales and distributions described in this Article are hereby not required to pay any tax or fees levied by this Chapter 17, and shall be and remain unaffected by any other provisions of this Chapter 17.

The provisions of this Article shall apply only to warehouses or storage places operated by common carriers, or carriers holding a certificate or permit from the Railroad Commission of Texas. Acts 1959, 56th Leg., 3rd C.S., p. 187, ch. 1, art. 17.11 added Acts 1963, 58th Leg., p. 970, ch. 393, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER 18—CEMENT PRODUCTION TAX

Art. 18.01 Tax

Exemption of items taxed under existing statutes from the limited sales, excise and use tax, see art. 20.04(B) (1).

CHAPTER 19—MISCELLANEOUS OCCUPATION TAXES

Art. 19.01 Miscellaneous Occupation Taxes

(10) **Billiard Tables.** From every person owning and operating for profit and every firm, association of persons, corporations and every other organization, save and except religious, charitable or educational organizations, authorized under the laws of the State of Texas, owning and operating every billiard table, by whatever name called, and where the player thereon does not or is not required to make a coin deposit causing an electrical connection of any nature or kind before such game may be actually commenced, there shall be collected an annual tax of Five Dollars (\$5) for each billiard table.

(a) **Billiard Table Defined.** A billiard table is defined as any table surrounded by a ledge or cushion with or without pockets upon which balls are impelled by a stick or cue.

(b) **Cities and Towns May Levy Tax and License Owners and Operators.** All cities and towns, whether incorporated under general or special law, shall have the power and authority to levy and collect a tax, equal to one half ($\frac{1}{2}$) of the amount herein levied, and may ban, prohibit, regulate, supervise, control or license, any person, firm, association of persons, or corporation, owning or operating a billiard table within the incorporated limits of such city or town, and to fix penalties for the violation thereof. Added Acts 1963, 58th Leg., p. 114, ch. 65, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER 20—LIMITED SALES, EXCISE AND USE TAX

Art. 20.01 Title—Definitions

This Chapter is known and may be cited as the "Limited Sales, Excise and Use Tax Act," and the following words shall have the following meanings unless a different meaning clearly appears from the context:

(A) **Person.** "Person" shall mean and include any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, cooperative, assignee, or any other group or combination acting as a unit. "Person" shall also include the United States or any agency thereof, this State, or any agency hereof, or any city, county, special district, or other political subdivision of this State to the extent engaged in the selling of tangible personal property taxable under this Chapter.

(B) **Comptroller.** "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

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(C) **Business.** "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(D) **Receipts.**

(1) 'Receipts' means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the tangible personal property sold. However, in accordance with such rules and regulations as the Comptroller may prescribe, a deduction may be taken if the retailer has purchased tangible personal property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the tangible personal property, and has resold the tangible personal property prior to making any use of the tangible personal property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the tangible personal property.

(b) The cost of the materials used, labor or service costs, interest paid, losses or any other expenses.

(c) The cost of transportation of the tangible personal property prior to its sale to the purchaser.

(2) "Receipts" does not include any of the following:

(a) Cash discounts allowed on sales.

(b) Sales price of tangible personal property returned by customers when the full sales price is refunded either in cash or credit.

(c) The amount charged for labor or services rendered in installing, applying, remodeling or repairing the tangible personal property sold.

(d) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

(f) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature.

(g) Charges for transportation of tangible personal property after sale.

(E) **In this State or Within the State.** "In this State" or "Within the State" means within the exterior limits of the State of Texas and includes all territory within these limits owned by or ceded to the United States of America.

(F) **Occasional Sale.** "Occasional Sale" means:

(1) One (1) or two (2) sales of tangible personal property at retail during any twelve-month period by a person who does not hold himself out as engaging (or who does not habitually engage) in the business of selling such tangible personal property at retail.

(2) The sale of the entire operating assets of a business or of a separate division, branch or identifiable segment of a business. For the purpose of this subsection a "separate division, branch or identifiable segment" shall be deemed to exist if prior to its sale the income and expenses

attributable to such "separate division, branch or identifiable segment" could be separately ascertained from the books of account or record. The purpose of this subsection is to clarify existing law and merely expresses the original intention of the Legislature.

(3) Any transfer of all or substantially all the property held or used by a person in the course of an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purposes of this subsection, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity.

(G) Purchase. "Purchase" means:

(1) Any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(2) A transaction whereby the possession of tangible personal property is transferred but the seller retains the title as security for the payment of the price.

(3) A transfer, for a consideration, of tangible personal property which has been produced, fabricated or printed to the special order of the customer.

(H) Rental Price or Lease Price.

(1) "Rental Price" or "Lease Price" means the total amount for which tangible personal property is rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the tangible personal property rented or leased.

(b) The cost of material used, labor or service cost, interest charged, losses, or any other expenses.

(c) The cost of transportation of the tangible personal property at any time.

(2) The total amount for which tangible personal property is rented or leased includes all of the following:

(a) Any services which are a part of the lease or rental.

(b) Any amount for which credit is given to the lessee or rentee by the lessor or renter.

(I) Retail Sale or Sale at Retail. "Retail Sale" or "Sale at Retail" means:

(1) Any sale of tangible personal property.

(2) The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State. The person making the delivery in such cases shall include the retail selling price of the tangible personal property in his receipts.

(J) Retailer.

(1) "Retailer" includes:

(a) Every seller engaged in the business of making sales of tangible personal property for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(b) Every person making more than two (2) retail sales of tangible personal property during any twelve-month period, including sales made

in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

(c) Every person who leases or rents to another tangible personal property for storage, use or other consumption, except that persons engaged in the leasing or licensing of motion picture films of any kind or character to motion picture theatres, television stations and others shall be liable for the tax levied under the provisions of this law, and they shall not pass said tax along to the person or persons to whom they lease or license said motion picture films.

(2) When the Comptroller determines that it is necessary for the efficient administration of this Chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Comptroller may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this Chapter.

(K) Sale.

(1) "Sale" means and includes any transfer of title or possession, or segregation in contemplation of transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(2) "Sale" includes:

(a) The producing, fabrication, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting.

(b) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(c) The furnishing, preparing or serving for a consideration of food, meals, or drinks.

(d) A transaction whereby the possession of tangible personal property is transferred but the seller retains the title as security for the payment of the price.

(e) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the customer.

(L) Sales Price.

(1) "Sales Price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the tangible personal property sold.

(b) The cost of material used, labor or service costs, interest paid, losses, or any other expenses.

(c) The cost of transportation of the tangible personal property prior to its sale or purchase.

(2) The total amount for which tangible personal property is sold includes all of the following:

(a) Any services which are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

(3) "Sales Price" does not include any of the following:

(a) Cash discounts allowed on sales.

(b) The amount charged for tangible personal property returned by customers when the entire amount charged therefor is refunded either in cash or credit.

(c) The amount charged for labor or services rendered in installing, applying, remodeling or repairing the tangible personal property sold.

(d) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

(f) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature.

(g) Charges for transportation of tangible personal property after sale.

(M) Seller. "Seller" includes every person engaged in the business of selling, leasing or renting tangible personal property of a kind, the receipts from the retail sale, lease or rental of which are required to be included in the measure of the limited sales tax.

(N) Storage. "Storage" includes any keeping or retention in this State for any purpose except sale in the regular course of business or subsequent use solely outside this State of tangible personal property purchased from a retailer.

(O) Storage and Use Exclusion. "Storage" and "Use" do not include the keeping, retaining or exercising of any right or power over tangible personal property for the purpose of subsequently transporting it outside the State for use thereafter solely outside the State, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the State, and thereafter used solely outside the State.

(P) Tangible Personal Property. "Tangible Personal Property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

(Q) Taxpayer. "Taxpayer" means any person liable for tax under this Chapter.

(R) Use. "Use" includes the exercise of any right or power over tangible personal property incident to the ownership of that tangible personal property except that it does not include the sale of that tangible personal property in the regular course of business. "Use" specifically includes the incorporation of tangible personal property into real estate or into improvements upon real estate without regard to the fact that such real estate and improvements may subsequently be sold as such except as provided in Article 20.01(T) (2).

(S) Sale for Resale. "Sale for Resale" shall mean a sale of tangible personal property to any purchaser who is purchasing said tangible personal property for the purpose of reselling it in the normal course of business either in the form or condition in which it is purchased, or as an attachment to, or integral part of, other tangible personal property. A sale for

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resale shall include a sale of tangible personal property to a purchaser for the sole purpose of that purchaser's renting or leasing said tangible personal property to another person, but not if incidental to the renting or leasing of real estate.

(T) Contractor or Repairman. "Contractor" or "Repairman" shall mean any person who performs any repair services upon tangible personal property or who performs any improvement upon real estate, and who, as a necessary and incidental part of performing such services, incorporates tangible personal property belonging to him into the property being so repaired or improved. Contractor or repairman shall be considered to be the consumer of such tangible personal property furnished by him and incorporated into the property of his customer, for all of the purposes of this Chapter.

(1) The above provision shall apply only if the contract between the person performing the services and the person receiving them contains a lump sum price covering both the performance of the services and the furnishing of the necessary incidental material.

(2) If the contract between the person providing the services and the person receiving them contains separate amounts applicable to the performance of the services and the furnishing of the material then the above Section shall not apply, and the person furnishing the materials shall be liable for the limited sales tax upon the agreed price of the materials as thus set forth in the contract. Provided, however, that the agreed price of the materials shall not be less than the actual cost of such materials to the person so providing them.

(3) In any case where the person so providing such materials has paid the limited sales tax to his supplier when purchasing the tangible personal property, he shall be entitled to credit the tax so paid to his supplier against any tax imposed by this Chapter with respect to his subsequent sale of that tangible personal property.

(U) Manufacturing. "Manufacturing" shall mean and include every operation commencing with the first production stage of any article of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) which it has when transferred by the manufacturer to another. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Savings Provisions. Acts 1963, 58th Leg., p. 371, ch. 138, § 4, provided:

"Sec. 4. The repeal of any law by this Act shall not affect or impair any act done or obligation, right, license, permit or penalty accrued or existing under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such obligation, right, license, permit or penalty. Taxes incurred under any law repealed by this Act are an obligation within the meaning of this Section. In addition, any permit or license obtained under any law re-

pealed by this Act shall remain effective for the term and under the conditions prescribed by the repealed law under which the permit or license was granted or issued."

"In addition to the application of this Act with respect to transactions occurring on and after the effective date hereof, the definitions, exemptions and other provisions hereof are intended to clarify the prior law (Chapter 24, Acts 1961, Fifty-seventh Legislature, First Called Session) and shall not be considered in construing or applying the prior law in such a manner as to cause or result in the imposition of any tax thereunder which would not have been imposed under the prior law in the absence of this Act."

Chapter 20, Limited Sales, Excise and Use Tax, as enacted by Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1, consisting of articles 20.01 to 20.17, was amended by Acts 1963, 58th Leg., p. 371, ch. 138, § 1 to read as now set out in articles 20.01 to 20.17.

Repeal or Modification

The provisions of Acts 1961, 57th Leg., 1st C.S., ch. 24, art. I, § 1, codified as arts. 20.01 to 20.17, the limited sales, excise and use tax, are repealed or modified by Acts 1963, 58th Leg., p. 134, ch. 81, § 9 to the extent of conflict with Acts 1963, 58th Leg., p. 134, ch. 81, §§ 1-7, which amend the Texas Banking Code of 1943, Vernon's Ann.Civ.St. arts. 342-204, 342-304, 342-305, 342-504, 342-903 and 342-908, and which add art. 342-509a thereto. See, note, under art. 1.01.

Art. 20.02. Imposition of Limited Sales Tax

There is hereby imposed a limited sales tax at the rate of two per cent (2%) on the receipts from the sale at retail of all tangible personal property within this State. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Method of retailer in computing tax, see art. 20.05(B).

Art. 20.021. Method of Collection; Bracket System

(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.24	No Tax
.25 to .74	.01
.75 to 1.24	.02
1.25 to 1.74	.03
1.75 to 2.24	.04

Provided, further, that for each additional fifty cents (50¢) of purchase, or fraction thereof, one cent (1¢) limited sales tax shall be collected thereon.

When several articles or items of tangible personal property are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or item of tangible personal property specifically exempt under the provisions of Article 20.04 of this Chapter.

The use of tokens or stamps for the purpose of collecting or of enforcing the collection of the tax imposed in this Chapter or for any other purpose in connection with such tax is prohibited.

(B) Assumption or Absorption of Tax by Retailer; Unlawful Advertising.

(1) It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, either directly or indirectly, that the tax or any part thereof will be assumed or absorbed by him or that it will not be added to the selling price of the tangible personal property sold or that it or any part of it will be refunded. Provided, however, that this paragraph (B) does not prohibit any utility from billing its customers in

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one lump sum covering the utility sales price plus the tax imposed by this Chapter.

(2) Any person violating any provision of this paragraph is guilty of a misdemeanor.

(C) Limited Sales Tax Permit Application.

(1) Every person desiring to engage in or to conduct business as a seller within this State shall file with the Comptroller an application for a permit for each place of business.

(2) Every application for a permit shall:

(a) Be made upon a form prescribed by the Comptroller.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.

(c) Set forth such other information as the Comptroller may require.

(d) The application shall be signed by the owner if he is a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(D) Limited Sales Permit Issuances. After compliance with paragraph (C) of this Article by the applicant, the Comptroller shall grant and issue to each applicant without charge a separate permit for each place of business within the State. A permit shall not be assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

(E) Revocation, Suspension of Permit: Procedure.

(1) Whenever any person fails to comply with any provision of this Chapter relating to the limited sales tax or with any rule or regulation of the Comptroller relating to such tax prescribed and adopted under this Chapter, the Comptroller upon hearing, after giving the person twenty (20) days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person.

(2) The Comptroller shall give to the person written notice of the suspension or revocation of any of his permits.

(3) The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(4) The Comptroller shall not issue a new permit after the revocation of a permit unless he is satisfied that the former holder of the permit will comply with the provisions of this Chapter relating to the limited sales tax and the regulations of the Comptroller. The Comptroller may prescribe the terms under which a suspended permit may be reissued.

(5) The action of the Comptroller may be appealed by the taxpayer in the same manner as a final deficiency determination.

(F) Presumption of Taxability: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the limited sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established.

The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the tangible personal property

is purchased for the purpose of reselling, leasing or renting it in the regular course of business.

(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling, leasing or renting tangible personal property. A resale certificate may be given by a purchaser, who at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be resold, leased or rented in the regular course of business or will be used for some other purpose.

(H) Form and Contents of Resale Certificate.

(1) The certificate shall:

(a) Be signed by and bear the name and address of the purchaser.

(b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.

(c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business.

(2) The certificate shall be substantially in such form as the Comptroller may prescribe.

(I) Liability of Purchaser Giving Resale Certificate. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the tangible personal property to him shall be deemed the measure of the tax.

(J) Improper Use of Resale Certificates. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

(K) Resale Certificate; Commingled Fungible Goods. If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of goods covered by the resale certificate until a quantity of such goods equal to the quantity of the goods so commingled has been sold.

(L) Bad Debts. Credit shall be allowed to the retailer for taxes paid on sales represented by that portion of an account determined to be worthless and actually charged off for federal income tax purposes or on the portion of the purchase price remaining unpaid at the time of a repossession made under the terms of a conditional sales contract.

(M) Refunds and Allowances. Credit shall be allowed to the retailer for taxes paid on the amount of any refunds or credits allowed to a purchaser as a result of a bona fide renegotiation of a sales price. Such renegotiation shall include agreements by which the seller refunds or allows credit for any amount in satisfaction for an alleged breach of warranty with respect to tangible personal property previously sold by him to the

person with whom said agreement is made. As amended Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

The subject matter of this article which was inserted in 1963 was derived from article 20.02.

Art. 20.03. Imposition and Rate of Use Tax

An excise tax is hereby imposed on the storage, use or other consumption in this State of tangible personal property purchased, leased or rented from any retailer on or after September 1, 1961, for storage, use or other consumption in this State, at the rate of two per cent (2%) of the sales price of the property or, in the case of leases or rentals, of said lease or rental prices.

(A) **Liability for Use Tax: Extinguishment of Liability.** Every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer or leased or rented from another person for such purpose is liable for the tax. His liability is not extinguished until the tax has been paid to this State, except that a receipt from a retailer engaged in business in this State or from a retailer who is authorized by the Comptroller, under such rules and regulations as he may prescribe, to collect the tax and who is, for the purposes of this Chapter relating to the use tax regarded as a retailer engaged in business in this State, given to the purchaser pursuant to paragraph (B) of this Article is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(B) **Collection by Retailer: Purchaser's Receipt.** Every retailer engaged in business in this State and selling, leasing or renting tangible personal property for storage, use, or other consumption in this State shall at the time of making the sale collect any use tax which may be due from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Comptroller.

"Retailer engaged in business in this State" as used in this Section (B) and the preceding Section (A) means and includes any of the following:

(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

(2) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

(C) **Assumption, Absorption of Tax by Retailers, Unlawful Advertising.** It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling, renting, or leasing price of the tangible personal property sold, rented or leased, or that it or any part thereof will be refunded.

(D) **Unlawful Acts.** Any person convicted of violating paragraphs (B) or (C) of this Article shall be guilty of a misdemeanor and shall suffer the penalties set forth in Article 20.12(D) of this Chapter.

(E) Registration of Retailers. Every retailer selling, leasing or renting tangible personal property for storage, use or other consumption in this State shall register with the Comptroller and give:

- (1) The names and addresses of all agents operating in this State.
- (2) The location of all distribution or sales houses or offices or other places of business in this State.
- (3) Such other information as the Comptroller may require.

(F) Presumption of Purchase for Use: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the use tax and of the duty to collect the use tax, it shall be presumed that tangible personal property sold, leased or rented by any person for delivery in this State is sold, leased or rented for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who sells, leases or rents the property unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for resale, leasing or renting.

(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property. A resale certificate may be given by a purchaser who, at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be so sold, leased or rented or will be used for some other purpose.

(H) Form and Contents of Resale Certificate.

- (1) The certificate shall:
 - (a) Be signed and bear the name and address of the purchaser.
 - (b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.
 - (c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business.
- (2) The certificate shall be substantially in such form as the Comptroller may prescribe.

(I) Liability of Purchaser Giving Resale Certificate; Use of Article Bought for Resale. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental, in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the property to him shall be deemed the measure of the tax.

(J) Improper Use of Resale Certificates. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

(K) Resale Certificate: Commingled Fungible Goods. If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such a similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods covered by the

resale certificate until a quantity of commingled goods equal to the quantity of such goods so commingled has been sold.

(L) **Presumption of Purchase from Retailer.** It shall be further presumed in the absence of evidence to the contrary, that tangible personal property shipped or brought to this State by the purchaser after the effective date of this Chapter was purchased from a retailer on or after the effective date of this Chapter for storage, use or other consumption in this State. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.04. Exemptions

“Exempted from taxes imposed by this Chapter,” as used herein, means exempted from the computation of the amount of the taxes imposed.

Exemption Certificates. If a purchaser certifies in writing to a seller that the tangible personal property purchased will be used in a manner or for a purpose entitling the seller to regard the receipts from the sale as exempted by this Chapter from the computation of the amount of the limited sales tax, and if the purchaser then uses the tangible personal property in some other manner or for some other purpose, the purchaser shall be liable for payment of the limited sales tax as if he were a retailer making a retail sale of the tangible personal property at the time of such use, and the cost of the tangible personal property to him shall be deemed the receipts from such retail sale for the purpose of determining the amount of tax for which he is liable.

Any person who gives an exemption certificate to the seller for tangible personal property which he knows, at the time of purchase, will be used in a manner other than that expressed in the exemption certificate is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

(A) **Constitution and Statutory Exemptions.** There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of and the storage, use or other consumption in this State of tangible personal property the gross receipts from the sale, lease or rental of which, or the storage, use or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

(B) Items Taxed Under Existing Statutes.

(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental, production or distribution or the storage, use or other consumption in this State of (a) oil as taxed under the provisions of Chapter 4 of this Title;¹ (b) sulphur as taxed under the provisions of Chapter 5 of this Title;² (c) cigarettes as defined and taxed under the provisions of Chapter 7 of this Title;³ (d) cigars and tobacco products as defined and taxed under the provisions of Chapter 8 of this Title;⁴ (e) motor fuels as defined, taxed or exempted under the provisions of Chapter 9 of this title;⁵ (f) special fuels as defined, taxed or exempted under the provisions of Chapter 10 of this Title;⁶ (g) cement as taxed under the provisions of Chapter 18 of this Title;⁷ and (h) motor vehicles, trailers and semitrailers as defined and taxed under the provisions of Chapter 6 of this Title.⁸

(2) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, production, distribution or the stor-

age, use or other consumption in this State of alcoholic beverages, including distilled spirits, beer, ale and wine, subject to a tax imposed by the Texas Liquor Control Act, as amended; ⁹ except that any such alcoholic beverages shall be taxable when, and only when, consumed with food as a part of a meal served on or off the premises of the vendor for consumption at tables, chairs or counters or from trays, glasses, dishes or other tableware provided by the vendor.

(3) There are exempted from the taxes imposed by this Chapter the receipts from the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of water.

(4) There are exempted from the taxes imposed by this Chapter the receipts from the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of telephone and telegraph service.

(C) Property Used in Manufacturing, Packaging and Containers.

(1) Tangible Personal Property Used in Manufacturing. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this State of:

(a) Tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed or fabricated for ultimate sale at retail within or without this State; and

(b) Tangible personal property used or consumed in or during any phase of such actual manufacturing, processing or fabricating operation, provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operations. Chemicals, catalysts, and other materials which are used during such operations and which are used for the purpose of producing or inducing a chemical or physical change during such operations or for removing impurities or otherwise placing a product in a more marketable condition are included within the exemption, as are other articles of tangible personal property used in such a manner as to be necessary or essential in the actual manufacturing, processing, or fabricating operations. The exemption provided herein does not include the following:

(i) Machinery, equipment and replacement parts and accessories therefor, having a useful life when new in excess of six (6) months;

(ii) Machinery, equipment, materials and supplies used in a manner that is merely incidental to the manufacturing, processing or fabricating operation such as intraplant transportation equipment, and maintenance and janitorial equipment and supplies.

(iii) Hand tools such as hammers, wrenches, saws, etc., and

(iv) Tangible personal property used by a manufacturer, processor or fabricator in any activities other than the actual manufacturing, processing or fabricating operation such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research and development of new products, or in transportation activities.

(2) Wrapping, Packing and Packaging Supplies.

(a) There are exempted from the taxes imposed by this Chapter the receipts from sales of all internal and external wrapping, packing, and packaging supplies and materials to any person for use in wrapping, pack-

ing or packaging any tangible personal property for the purpose of expediting or furthering in any way the sale of that property.

(b) For the purpose of this Section, wrapping, packing and packaging supplies shall include, but shall not be limited to:

(1) Wrapping paper, wrapping twine, bags, cartons, crates, crating materials, tape, rope, labels, staples, glue and mailing tubes.

(2) Property used inside a package in order to shape, form, preserve, stabilize or protect the contents, such as, but not limited to, excelsior, straw, cardboard fillers, separators, shredded paper, ice, dry ice, cotton batting, shirt boards, hay and laths.

(3) Containers.

(a) There are exempted from the taxes imposed by this Chapter the receipts of sales, leases, or rentals of, and the storage, use or other consumption in this State of:

(1) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(2) Containers when sold with the contents if the sale price of the contents is not required to be included in the measure of the taxes imposed by this Chapter.

(3) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

(a) As used in this Article, the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for re-use. All other containers are "non-returnable containers."

(D) Certain Meals and Food Products. There are exempted from the taxes imposed by this Chapter the receipts from the sale of, and the storage, use or other consumption in this State of:

(1) Meals and food products (including soft drinks and candy) for human consumption served by public or private schools, school districts, student organizations, or Parent-Teacher Associations pursuant to an agreement with the proper school authorities, in an elementary or secondary school during the regular school day.

(2) Meals and food products (including soft drinks and candy) for human consumption when sold by a church or at a function of said church.

(3) Meals and food products (including soft drinks and candy) for human consumption when served to patients and inmates of hospitals and other institutions licensed by the State for the care of human beings.

(E) Interstate Shipments:

(1) Property Shipped Outside State Pursuant to Sales Contract; Delivery by Retailer. There are exempted from the taxes imposed by this Chapter receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside this State by the retailer by means of:

(a) Facilities operated by the retailer.

(b) Delivery by the retailer to a carrier for shipment to a consignee at such point; or

(c) Delivery by the retailer to a customs broker or forwarding agent for shipment outside this State.

(2) Common Carriers. There are exempted from the computation of the limited sales tax, the receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the ship-

ment is made freight charges collect, to a point outside this State and the tangible personal property is actually transported to the out-of-State destination for use by the carrier in the conduct of its business as a common carrier outside the State of Texas.

(3) Special Use Tax Exemption. The use tax imposed herein shall not apply to:

(a) The use, in this State, of tangible personal property which is acquired outside this State and which is moved into this State for use as a licensed and certificated carrier of persons or property.

(b) The temporary storage in this State of tangible personal property which is acquired outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property which is used solely outside this State.

(c) The storage, use or consumption of tangible personal property which is acquired outside this State, the sale, lease or rental or the storage, use or consumption of which tangible personal property would be exempt from the limited sales or use tax were it purchased within this State.

(d) The storage and use, in this State, of tangible personal property acquired outside this State for use as a repair or replacement part for and actually affixed in this State to a self-propelled vehicle which is a licensed and certificated common carrier of persons or property.

(F) United States; State; Political Subdivisions; Religious, Eleemosynary Organizations. There are exempted from the computation of the amount of the taxes imposed by this Chapter, the receipts from the sale, lease or rental of any tangible personal property to, or the storage, use or other consumption of tangible personal property by:

(1) The United States, its unincorporated agencies and instrumentalities.

(2) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

(3) The State of Texas, its unincorporated agencies and instrumentalities.

(4) Any county, city, special district or other political subdivision of this State.

(5) Any organization created for religious, educational, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

(G) Occasional Sales. There are exempted from the taxes imposed by this Chapter the receipts from the occasional sales of tangible personal property and the storage, use or other consumption in this State of tangible personal property the transfer of which to the consumer constitutes an occasional sale or the transfer of which to the consumer is made by way of an occasional sale.

(H) Written Contracts and Bids Executed Prior to the Effective Date of this Chapter. There are exempted from the taxes imposed by this Chapter the receipts from the sale, use or rental of, and the storage, use or other consumption in this State of, tangible personal property (i) used for the performance of a written contract entered into prior to September 1, 1961, or (ii) pursuant to the obligation of a bid or bids submitted prior to September 1, 1961, which bid or bids could not be altered or withdrawn on or after that date and which bid or bids and contract entered into pursuant thereto are at a fixed price not subject to change or modification

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by reason of a tax imposed by this Chapter. The exemption provided by this Section shall have no effect on the receipts from the sale, use or rental of, and the storage, use or other consumption of tangible personal property in this State after August 31, 1964, and the same will be taxable if it is not otherwise exempt.

Provided, however, that notice of such contract or bid by reason of which an exclusion is claimed under this Section (H) must be given by the taxpayer to the Comptroller on or before the lapse of one hundred and twenty (120) days from August 16, 1961.

(I) Use Tax: Reciprocal Credit for Similar Taxes Paid Elsewhere. There shall be allowed as a credit to any taxpayer against the use tax imposed by this Chapter upon any tangible personal property, the amount of any like tax paid by that taxpayer in another state, territory or possession of the United States of America with respect to the sale, purchase or use of such property; provided that such other states, territories, or possessions provide for a similar tax credit for taxpayers of this State.

(J) Use Tax Inapplicable When Limited Sales Tax Applies or When Use Tax Previously Paid. The storage, use or other consumption in this State of tangible personal property, the receipts from the sale, lease, rental or use of which are required to be included in the measure of the limited sales tax, or tangible personal property upon which a use tax has been paid by the taxpayer using said tangible personal property, is exempted from the use tax imposed by this Chapter.

(K) Food and Food Products for Human Consumption. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of, food products for human consumption.

(1) "Food products" shall include, except as otherwise provided herein, but shall not be limited to, cereals and cereal products; milk and milk products, including ice cream; oleomargarine; meat and meat products; poultry and poultry products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruit and fruit products; spices, condiments and salt; sugar and sugar products; coffee and coffee substitutes; tea, cocoa products; or any combination of the above.

(2) "Food products" shall not include:

(a) Medicines, tonics, vitamins and medicinal preparations in any form;

(b) Carbonated and noncarbonated packaged soft drinks and diluted juices where sold in liquid or frozen form; and ice and candy.

(c) Foods and drinks (which include meals, milk and milk products, fruit and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juices, ice cream in cones or small cups) served, prepared or sold ready for immediate consumption in or by restaurants, drug stores, lunch counters, cafeterias, hotels or like places of business or sold ready for immediate consumption from push carts, motor vehicles, or any other form of vehicle. Provided, however, that food and drinks purchased by a common carrier for the purpose of serving passengers traveling *en route* aboard such carriers shall be exempt.

(L) Drugs, Medicines, Prosthetic Devices. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of insulin and of drugs and medicines when prescribed or dispensed for humans or animals by a licensed practitioner of the healing arts. There are also exempted from the taxes imposed by this Chapter, the receipts from sales of and the storage, use or other con-

sumption of braces, spectacles, hearing aids, orthopedic and dental prosthetic appliances, and replacement parts designed specifically for such products.

(M) Animal Life; Feed; Seeds; Plants; Fertilizer. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of:

(1) Any form of animal life of a kind the products of which ordinarily constitute food for human consumption. Horses, mules and similar work animals used on farms and ranches.

(2) Feed for farm and ranch animals and for animals which are held for sale in the regular course of business.

(3) Seeds and annual plants the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

(4) Fungicides, insecticides, herbicides, defoliant and desiccants exclusively used or employed on farms or ranches in the production of food for human consumption, feed for any form of animal life, or other agricultural products to be sold in the regular course of business.

(5) Fertilizer.

(6) Farm machinery or equipment exclusively used or employed on farms or ranches in the production of food for human consumption, feed for any form of animal life, or other agricultural products to be sold in the regular course of business.

(N) Sale for Resale: Leasing or Renting.

(1) There are exempted from the taxes imposed by this Chapter the receipts from all sales for resale, leasing or renting.

(2) However, if a person purchases tangible personal property for the purpose of leasing or renting it to another person, and if he later sells it by means of an occasional sale before he has collected and paid to this State as much tax on the rental or lease charges as would have been due and payable to this State had he not purchased the tangible personal property for the purpose of so renting and leasing it, he shall, at the time of his occasional sale of said tangible personal property include in his receipts from taxable sales the amount by which his purchase price exceeded the amount of rents collected by him on said tangible personal property.

(3) When a lessor makes a retail sale of leased tangible personal property to a lessee of that tangible personal property under an agreement whereby certain rental payments are credited against the purchase price of that tangible personal property, he need not collect or pay any tax on the sale price to the extent that he has collected and paid on such rental payments.

(O) Vessels.

(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of materials, equipment and machinery which enter into and become component parts of ships, vessels, including commercial fishing vessels, or barges, of fifty (50) tons displacement and over, built in this State, and the receipts from the sale of such ships, vessels, or barges when sold by the builder thereof.

(2) The taxes imposed by this Chapter shall not apply to the receipts from the sale, lease or rental of, or the storage, use or other consumption

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in this State of materials and supplies purchased by the owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof; or to materials and supplies used in the repair of such ships and vessels where such materials and supplies enter into and become a component part of such ships or vessels.

(3) The taxes imposed by this Chapter shall not apply to the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of drilling equipment used for oil exploitation or production when such equipment is built for exclusive use outside the boundaries of the State and is removed forthwith from the State upon completion.

(P) Certain Aircraft. There are exempted from the taxes imposed by this Chapter the receipts from the sale, use, storage, lease or other consumption of aircraft sold to persons using such aircraft as certificated or licensed carriers of persons or property, or sold to any foreign government or sold to persons who are not residents of this State.

(Q) Gas and Electricity. There are exempted from the taxes imposed by this Chapter the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of gas and electricity except when sold for residential use or commercial use.

For the purpose of this subsection, the terms "residential use" and "commercial use" shall have the following meanings:

"Residential use" means use in a family dwelling or building or portion thereof occupied as the home, residence, or sleeping place of one or more persons.

"Commercial use" means use by persons engaged in selling, warehousing or distributing a commodity or service, either professional or personal.

The term "commercial use" specifically does not include use by persons engaged in: (1) processing tangible personal property for sale as tangible personal property; (2) exploration for or production and transportation of a material extracted from the earth; (3) agriculture, including dairy or poultry operations and pumping water for farm and ranch irrigation; or, (4) electrical processes such as electroplating, electrolysis and cathodic protection.

(R) Rolling Stock. There are exempted from the taxes imposed by this Chapter receipts from any sale, use, storage or other consumption of locomotives and rolling stock, including fuel or supplies essential to the operation of locomotives and trains.

(S) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this State of books consisting wholly of writings sacred to any religious faith and religious periodicals published or distributed by any religious faith consisting wholly of writings promulgating the teachings of such faith.

(T) Vending Machine Sales. There are exempted from the taxes imposed by this Chapter the receipts from the sale of tangible personal property when sold through a coin-operated vending machine for a total consideration of twenty-four cents (24¢) or less.

(U) Transfers Without Substantial Change in Ownership. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in

this State, pursuant to the terms of a good faith bona fide contractual relationship, of an interest in tangible personal property to a partner, co-owner or other person who before or after such a sale owns a joint or undivided interest (with the seller) in such tangible personal property where the Texas Limited Sales, Excise and Use Tax has previously been paid on such tangible personal property. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

¹ Article 4.01 et seq.

² Article 5.01 et seq.

³ Article 7.01 et seq.

⁴ Article 8.01 et seq.

⁵ Article 9.01 et seq.

⁶ Article 10.01 et seq.

⁷ Article 18.01 et seq.

⁸ Article 6.01 et seq.

⁹ Vernon's Ann.P.C. arts. 666—1 et seq., 667—1 et seq.

Effective July 1, 1963.

Art. 20.05. Return and Payments

(A) Due Date of Taxes. The taxes imposed by this Chapter are due and payable to the Comptroller quarterly on or before the last day of the month next succeeding each quarterly period.

(B) Method Retailer Is to Use in Computing Tax. The limited sales tax levied under Article 20.02 hereof shall be computed and paid to the Comptroller on the basis of two per cent (2%) of all receipts from the total sales of taxable tangible personal property sold by such retailer; provided any retailer who can establish to the satisfaction of the Comptroller that fifty per cent (50%) or more of his receipts from the sale of tangible personal property arise from individual transactions where the total sales price is twenty-four cents (24¢) or less may exclude the receipts from such sales when reporting and paying the tax imposed by Article 20.02 of this Chapter. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the Limited Sales, Excise and Use Tax and the retailer shall be subject to assessment for back taxes, penalties and interest as provided for in this Chapter.

(C) Return; Time for Filing; Persons Required to File; Signatures; Accounting Basis.

(1) On or before the last day of the month following each quarterly period of three (3) months, a return for said quarterly period shall be filed with the Comptroller in such form as the Comptroller may prescribe.

(2) For purposes of the limited sales tax a return shall be filed by every person subject to the tax. For purposes of the use tax a return shall be filed by every retailer engaged in business in the State and by every person who has purchased tangible personal property, the storage, use or other consumption of which is subject to the use tax, but who has not paid the use tax due to a retailer required to collect the tax.

(3) Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.

(4) A taxpayer who keeps his regular books and records on a cash basis or on an accrual basis, or on any generally recognized accounting basis which correctly reflects the operation of the business, may file the tax returns required by this Chapter on the same accounting basis that is used for the regular books and records.

(D) Contents of Return.

(1) For the purposes of the limited sales tax, the return shall show the sale or receipts of the retailer or seller during the preceding reporting period. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total receipts from sales of tangible personal property sold by him during the preceding reporting period which was purchased for the purpose of storage, use or consumption in this State.

(2) Gross proceeds from taxable rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the Comptroller may prescribe.

(3) In case of a return filed by the purchaser, the return shall show the total sales price of the tangible personal property purchased by him, the storage, use or consumption of which became subject to the use tax during the preceding reporting period.

(4) The return shall also show the amount of the taxes for the period covered by the return and such other information as the Comptroller deems necessary for the proper administration of this Chapter.

(E) Reimbursement to Taxpayer for Collection of Tax; Prepayments. The taxpayer shall deduct and withhold from the taxes otherwise due from him on his quarterly tax return, one per cent (1%) thereof to reimburse himself for the cost of collecting the tax. Provided, however, an additional two per cent (2%) deduction shall be allowed a taxpayer who makes prepayments of his tax liability based upon a reasonable estimate of his tax liability for the quarter in which the prepayment is made. In order for the taxpayer to be entitled to the additional two per cent (2%) discount, the prepayment must be made on or before the fifteenth day of the second month of the calendar quarter for which the payment is made.

A taxpayer making a prepayment of his tax as provided for in this paragraph is not relieved from the filing of quarterly returns as provided for elsewhere in this Chapter. At the time the taxpayer files his quarterly return showing his actual tax liability any prepayments made by the taxpayer shall be credited against his tax liability; in the event that there is tax liability owed by the taxpayer in excess of the prepayment, the taxpayer shall remit such excess at the time of filing his quarterly return and from such excess shall deduct and withhold one per cent (1%) of the amount of the excess. If the tax liability of the taxpayer is less than the prepayment of taxes, the excess of the payment shall be recorded as a credit against future tax liability or refunded to the taxpayer as provided for in Article 20.10.

In the event the payment of any taxes due under the applicable provisions of this Chapter are not paid within the time required, or in the event that the taxpayer does not file reports when due as provided by the provisions of this Chapter, the taxpayer forfeits his claim to any discount, including any discount that might have been taken by a taxpayer at the time of making a prepayment.

(F) Return Periods; Quarterly Periods Other Than Calendar Quarters. The Comptroller, if he deems it necessary in order to insure payment to or facilitate the collection by the State of the amount of taxes due, may require returns and payment of the amount of said taxes for quarterly periods other than calendar quarters, in the case of a particular seller, retailer or purchaser, as the case may be, or for other than quarterly periods.

(G) Delivery of Return: Remittance. The person required to file the return shall deliver the quarterly return together with a remittance of the net amount of the tax due to the office of the Comptroller.

(H) Penalties for Failure to Pay or Report. If any person shall fail to file a report as required herein or shall fail to pay to the Comptroller the tax as imposed herein when said report or payment is due, he shall forfeit five per cent (5%) of the amount due as a penalty, and after the first thirty (30) days he shall forfeit an additional five per cent (5%). Provided, however, that the penalty shall never be less than One Dollar (\$1). Delinquent taxes shall draw interest at the rate of six per cent (6%) per annum, beginning sixty (60) days from the date due.

(I) Optional Reporting Methods for Certain Vendors.

(1) Notwithstanding any other provision of this Chapter, retail grocers as that term is defined herein, may elect to report their taxable receipts from the sale of tangible personal property by either of the following methods:

(a) Any retail grocer or any vendor who maintains a separate grocery department with separate records which may be audited by the State, as applies to the grocery department only, may determine his taxable receipts from the sale of tangible personal property in the following manner:

(i) Add all invoices for merchandise purchased during the next preceding calendar or fiscal year to obtain a total of such purchases.

(ii) Add all invoices for exempt merchandise purchased during the next preceding calendar or fiscal year to obtain a total of such purchases.

(iii) Divide the total amount of exempt merchandise purchases (item ii) by the amount of total purchases (item i) to obtain a percentage relationship.

(iv) Multiply the total receipts from all sales during the reporting period by the percentage thus obtained (item iii).

(v) Deduct the figure obtained by this multiplication (item iv) from total receipts for the reporting period. The remaining amount will be the taxable receipts from the sale of tangible personal property. To this must be added any purchases upon which the use tax is imposed by Article 20.03 of this Chapter.

This method of calculating taxable receipts from the sale of tangible personal property is available for reporting purposes only and is subject to such audits as the Comptroller may require. If such audit indicates that the actual tax liability differs from the tax reported and paid, then the Comptroller shall assess additional tax or grant a refund or credit. No penalties or interest shall be assessed on additional taxes disclosed to be due by audit unless said audit discloses fraud or willful evasion of the tax. No interest shall be paid by the State on any overpayment of tax that may be disclosed upon audit.

(b) Any retail grocer whose total receipts do not exceed One Hundred Thousand Dollars (\$100,000) per annum may elect to report and pay the taxes imposed by this Chapter on the basis that his taxable receipts from

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the sale of tangible personal property are equal to fifteen per cent (15%) of his total receipts.

State audits covering the period during which this method of reporting is being or has been used shall be limited to a determination of the eligibility of the grocer to exercise this option. No additional taxes shall be assessed or refunds or credits allowed because of any showing that the amount of tax paid the State under this method of reporting differs from the amount that would have been paid under any other reporting method.

Grocers electing to use this method of reporting shall be required to continue in the manner prescribed for a period of three (3) years following such election provided the total receipts of such grocers continue to be One Hundred Thousand Dollars (\$100,000) or less. At such time as the gross receipts of any grocer exceed One Hundred Thousand Dollars (\$100,000), such grocer shall, upon the next succeeding calendar month, be ineligible to use this optional method and he shall promptly inform the Comptroller of this fact and shall cease to use such basis immediately. Any retail grocer who fails to inform the Comptroller of his ineligibility shall lose the immunity from audit assessment provided by this subsection and shall be liable for all back assessment, penalties and interest prescribed by this Chapter.

(c) For the purpose of this Section (I), the term "retail grocer" shall mean a retail vendor selling food for human consumption off the premises where sold together with household supplies and nondurable household goods.

(2) Notwithstanding any other provision of this Chapter, any vendor whose taxable receipts from the sale of tangible personal property are less than ten per cent (10%) of his total receipts may elect to report his taxable receipts from the sale of tangible personal property by the method set forth by paragraph (a) of subsection (1) of this Section (I) irrespective of the fact that such vendor may not fall within the definition of the term "retail grocer" as that term is defined by paragraph (c) of subsection (1) of this Section (I).

(3) This Section (I) does not change either the reporting periods or the reporting dates as provided in Article 20.05(A) and elsewhere in this Chapter. The waiver of penalties and interest provided by this Section (I) does not apply to any penalty and interest which may be assessed as a result of failure to file a return or failure to file a return on the proper reporting date or failure to remit with the return the correct amount of the tax due.

(J) **Commingled Tax and Receipts.** Any retailer who establishes an accounting system under which the amount of tax collected pursuant to this Chapter is commingled with the receipts from the sale of tangible personal property may determine taxable receipts in the following manner:

(1) He shall subtract from his total receipts the receipts from any sales which are specifically exempt from or otherwise excluded from the tax imposed by this Chapter. The remainder shall consist of the receipts from the sale of taxable tangible personal property plus the tax collected pursuant to the provisions of this Chapter.

(2) This remainder shall then be divided by 1.02. The answer resulting shall be the taxable gross receipts of the retailer for reporting purposes as prescribed by Section (B) of this Article.

The sole purpose of this Section is to permit the widest possible latitude in the internal accounting systems of retailers and to avoid requiring certain retailers to remit to the State a tax computed upon a base which already includes the tax imposed by this Chapter. Nothing herein shall be construed to relieve the retailer of the obligation and duty of collecting the tax in the specific manner prescribed by Article 20.021 of this Chapter.

(K) Direct Payment Procedure Authorized. The Comptroller shall establish a system of direct payment which shall be applicable to those consumers who meet the qualifications set forth in this Section and who, after approval by the Comptroller, are issued a direct payment permit. The holder of a direct payment permit may issue to all of the vendors or sellers from whom purchases of tangible personal property are made a blanket exemption certificate covering all future purchases made by the direct payment permit holder and such certificate shall show the number of the direct payment permit and shall specify that the direct payment permit holder agrees to accrue and pay to the State of Texas all taxes which are or may in the future be due on tangible personal property purchased pursuant to exemption certificate.

(1) Direct payment permits may be issued by the Comptroller after receipt of a written application for such a permit. The application shall be accompanied by:

(a) Records establishing the fact that the applicant is a responsible person annually purchasing tangible personal property having a value when purchased equal to or in excess of Two Hundred Thousand Dollars (\$200,000) exclusive of any purchase for which a resale certificate authorized by Article 20.021(F) of this Chapter can be or could have been issued.

(b) A description, in such detail as the Comptroller may require, of the accounting methods by which the applicant proposes to differentiate between taxable and exempt purchases.

(c) An agreement, in a form prescribed by the Comptroller and signed by the applicant or, if a corporation, by a responsible officer thereof, under which the applicant agrees to accrue and pay all taxes imposed by Article 20.03 of this Chapter on all purchases not specifically exempted by Article 20.04 of this Chapter. The agreement shall stipulate that the applicant agrees to remit the taxes due quarterly on or before the last day of the month next succeeding each quarterly period. Such agreement shall also stipulate that the applicant agrees to waive any claim for the discount authorized by Article 20.05(E) of this Chapter on any tax paid by him pursuant to a direct payment permit, provided, however, that if the applicant holds a valid seller's permit issued under the provisions of Article 20.021(C) of this Chapter he shall continue to be entitled to claim the discounts authorized on sales made pursuant to such seller's permit.

(2) A direct payment permit shall be issued to any applicant who meets, to the satisfaction of the Comptroller, the qualifications set forth in subsection (1) of this Section. The Comptroller shall be the sole judge of whether such qualifications have been met and refusal by the Comptroller to issue a direct payment permit shall not be appealable. Any applicant may, however, request an opportunity to submit an amended application or if denied a direct payment permit, after a reasonable length of time, he may submit a new application.

(3) Persons holding direct payment permits hold them as a matter of revocable privilege and not as a matter of right and the Comptroller may, upon his own initiative and with reasonable notice, cancel any direct payment permit. A cancellation shall not be appealable. The Comptroller

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shall notify a direct payment permit holder that his permit has been cancelled by registered mail and, immediately upon receipt of such notification, the direct payment permit holder shall contact all of the vendors or sellers from whom purchases of tangible personal property are made and notify them that the exemption certificates issued to them pursuant to the direct payment permit are no longer valid. Failure of a person to so notify the vendors or sellers from whom purchases of tangible personal property are made of the cancellation of a direct payment permit shall be considered as a failure and refusal to pay the Limited Sales, Excise and Use Tax by the person required to issue such notices.

(4) Any direct payment permit holder may voluntarily relinquish such permit by notifying the Comptroller of his desire to relinquish such permit. Such voluntary relinquishment of a direct payment permit shall not be effective until a termination notice is issued by the Comptroller. Immediately upon receipt of the Comptroller's termination notice, the direct payment permit holder shall contact all of the vendors or sellers from whom purchases of tangible personal property are made and notify them that the exemption certificates issued to them pursuant to the direct payment permit are no longer valid. Failure of a person to so notify the vendors or sellers from whom purchases of tangible personal property are made of the voluntary relinquishment of a direct payment permit shall be considered as a failure and refusal to pay the Limited Sales, Excise and Use Tax by the person required to issue such notice. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.06. Deficiency Determination

(A) **Recomputation of Tax; Determination on Discontinuance of Business.**

(1) If the Comptroller is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the State by any person, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession or which may come into his possession. Nothing in this or any other Section of this Act shall be construed to preclude the Comptroller from proceeding against the consumer for any tax which the consumer should have paid but failed to pay.

(2) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in paragraph (D) of this Article as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this Chapter.

(B) **Penalty for Fraud, Intent to Evade.** If any part of a deficiency for which a deficiency determination is made is due to fraud or an intent to evade this Chapter or authorized rules and regulations, a penalty of twenty-five per cent (25%) of the amount of the determination shall be added thereto.

(C) **Notice of Comptroller's Determination; Service.**

(1) The Comptroller shall give to the retailer or person storing, using or consuming tangible personal property written notice of his determination.

(2) The notice may be served personally or by mail; if by mail, the notice shall be addressed to the retailer or person storing, using or con-

suming tangible personal property at his address as it appears in the records of the Comptroller.

(3) In case of service by mail of any notice required by this Chapter, the service is complete at the time of deposit in the United States Post Office.

(D) Time Within Which Notice of Deficiency Determination to be Mailed; Consent to Later Mailing of Notice.

(1) Every notice of a deficiency determination shall be personally served or mailed within four (4) years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined or within four (4) years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be mailed or personally served within four (4) years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined.

(2) The limitation specified in this Article does not apply in case of a limited sales tax proposed to be determined with respect to sales of property for the storage, use or other consumption of which notice of a deficiency determination has been or is given pursuant to paragraphs (C), (D) (1) and (G) of this Article, and paragraph (B) of Article 20.07. The limitation specified in this Article does not apply in case of an amount of use tax proposed to be determined with respect to storage, use or other consumption of property for the sale of which notice of a deficiency determination has been or is given pursuant to paragraphs (C), (D) (1), and (G) of this Article, and paragraph (B) of Article 20.07 and to subparagraph 1 of this paragraph.

(3) If, before the expiration of the time prescribed in this Article for the mailing of a notice of deficiency determination, the taxpayer has consented in writing to the mailing of the notice after such time, the notice may be mailed any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(E) Determination if No Return Made; Estimate and Computation; Discontinuance of Business.

(1) If any person fails to make a return, the Comptroller shall make an estimate of the receipts of the person, or, as the case may be, of the amount of the total sales, rent or lease price of tangible personal property sold, rented or leased or purchased, by the person, the storage, use or other consumption of which in this State is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the Comptroller's possession or may come into his possession. Upon the basis of this estimate, the Comptroller shall compute and determine the amount required to be paid to the State, adding to the sum thus arrived at a penalty equal to ten per cent (10%) thereof. One or more determinations may be made for one or for more than one period.

(2) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in paragraph (D) of this Article as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this Chapter.

(F) Offsets; Computation; Interest.

(1) In making a determination, the Comptroller may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

(2) The interest on underpayments shall be computed in the manner set forth in paragraph (G) of Article 20.08.

(G) Notice of Estimate, Determination and Penalty; Service. Promptly after making his determination, the Comptroller shall give to the person written notice of the estimate, determination and penalty, the notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.07. Jeopardy Determinations

(A) Jeopardy Determination; When Made; Due Date. If the Comptroller believes that the collection of any tax or any amount of tax required to be collected and paid to the State or the amount of any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting that fact upon the determination. The amount determined is due and payable immediately.

(B) Nonpayments; Finality of Determination. If the amount specified in the determination is not paid within twenty (20) days after service of notice thereof upon the person against whom the determination is made, the amount becomes final at the expiration of the twenty (20) days unless a petition for redetermination is filed within the twenty (20) days, a delinquency penalty of ten per cent (10%) of the tax or amount of the tax and the interest provided in paragraph (G) of Article 20.08 shall attach to the amount of the tax or the amount of the tax required to be collected.

(C) Petition for Redetermination; Deposit of Security. The person against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to paragraphs (A) through (G) of Article 20.08. He shall, however, file the petition for redetermination with the Comptroller within twenty (20) days after the service upon him of notice of determination. The person shall also within the twenty-day period, deposit with the Comptroller such security as the Comptroller may deem necessary to insure compliance with this Chapter. The security may be sold by the Comptroller in the manner prescribed by paragraph (A), Article 20.09. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.08. Petition for Redetermination**(A) Time to File.**

(1) Any person against whom a determination is made under paragraphs (A) through (G) of Article 20.06, or any person directly interested, may petition for a redetermination within thirty (30) days after service upon the person of notice thereof.

(2) If a petition for redetermination is not filed within the thirty-day period, the determination becomes final at the expiration of the period.

(B) Oral Hearing; Notice; Continuances.

(1) If a petition for redetermination is filed within the thirty-day period, the Comptroller shall reconsider the determination and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him twenty (20) days' notice of the time and place of the hearing.

(2) The Comptroller may continue the hearing from time to time as may be necessary.

(C) Increase, Decrease and Amount of Determination. The Comptroller may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the Comptroller at or before the hearing, upon which the petitioner shall be entitled to a thirty-day continuance of the hearing to allow him to obtain and produce further evidence applicable to the items upon which the increase is based.

(D) Order of Comptroller on Petition for Redetermination; Finality of Order. The order or decision of the Comptroller upon a petition for redetermination becomes final thirty (30) days after service upon the petitioner of notice thereof.

(E) Due Date of Determinations; Penalties. All determinations made by the Comptroller under paragraphs (A) through (G) of Article 20.06 are due and payable twenty (20) days after the time they become final. If they are not paid when due and payable, a penalty of ten per cent (10%) of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

(F) Service of Notice. Any notice required by paragraphs (A) through (E) of this Article shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(G) Interest for Failure to Pay Tax; Amount; Rates. Any person who fails to pay any tax to the State or any amount of tax required to be collected and paid to the State within the time required, shall pay, in addition to the tax or amount of tax, interest at the rate of six per cent (6%) per annum, beginning sixty (60) days from the date on which the tax or the amount of tax required to be collected became due and payable to the State until the date of payment. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.09. Collection of Tax

(A) Notice of Delinquency to Persons Holding Credits or Property of Delinquent; Transfer or Disposition of Property or Debt after Notice; Bank Deposits.

(1) If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the Comptroller may, not later than three (3) years after the payment became delinquent or within three (3) years after the last recording of a lien, give notice thereof personally or by registered mail to all persons, including any officer or department of the State or any political subdivision or agency of the State, having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent, or persons owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the

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delinquent or such person. In the case of any State officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the State Comptroller.

(2) After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they received the notice until the Comptroller consents to a transfer or disposition, or until sixty (60) days elapse, after receipt of the notice, whichever period expires earlier.

(3) All persons so notified shall, within twenty (20) days after receipt of the notice, advise the Comptroller of all such credits, other personal property, or debts in their possession, under their control, or owing by them.

(4) If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice, in order to be effective, shall be delivered or mailed to the office of such bank at which such deposit is carried or at which such credits or personal property is held.

(5) If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, to the extent of the value of the property or the amount of the debts thus transferred or paid, he shall be liable to the State for any indebtedness due under this Chapter from the person with respect to whose obligation the notice was given.

(B) Action for Collection of Tax, Penalties, Interest; Limitation. At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three (3) years after the delinquency of any tax or any amount required to be collected, or within three (3) years after the last recording of a lien, the Comptroller may bring an action in the courts of this State, or any other State, or of the United States, in the name of the people of the State of Texas, to collect the amount delinquent together with penalties and interest.

(C) Attorney General to Prosecute Action. The Attorney General shall prosecute the action, and the Rules of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals shall be applicable to the proceedings.

(D) Issuance of Writ of Attachment Without Bond, Affidavit. In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment is required.

(E) Evidentiary Effect of Delinquency Certificate. In the action a certificate by the Comptroller showing the delinquency shall be prima facie evidence of the determination of the tax or the amount of the tax, of the delinquency of the amounts set forth, and of the compliance by the Comptroller with all the provisions of this Chapter in relation to the computation and determination of the amounts.

(F) Action for Use Tax; Manner of Service of Process. In any action relating to the use tax brought under this Chapter, process may be served according to the Rules of Civil Procedure or may be served upon any agent or clerk in this State employed by any retailer in a place of business maintained by the retailer in this State. In the latter case, a copy of the process shall forthwith be sent by registered mail to the retailer at his principal or home office.

(G) Judgment for Taxes.

(1) Comptroller May Sue. If any amount required to be paid to the State under this Chapter is not paid when due, the Comptroller may, within three (3) years after the amount is due, file in a court of competent jurisdiction in Travis County, Texas, or any county where the person owing the tax may be a resident or have a place of business, an action for recovery of such tax, together with any penalties and interest. Such action shall be in the form of an action for debt, and the certificate of the Comptroller or his duly authorized agent that the tax is due, specifying the amount due together with penalty and interest, shall be prima facie evidence of the justness and correctness of such claim by the State. Service may be had according to the provisions of Article 20.09, paragraph (F) of this Chapter.

(2) Judgments May be Abstracted. Any judgment obtained in favor of the State by an action brought under this Article may be filed for record with the county clerk of any county in this State and when so filed, shall constitute a lien upon all of the real property in the county owned by the person named as defendant in the judgment or thereafter acquired by him. Such lien shall have the force and effect of a judgment lien for ten (10) years from the date of judgment unless sooner released or discharged.

(3) Release. Upon payment in full of the amount of any judgment obtained under this Article, the Comptroller may issue a release of any such judgment lien. Prior judgments for taxes and penalties shall not bar subsequent suit by the Comptroller for additional taxes, or penalties or interest accruing after any such prior judgment, provided such suits are instituted within three (3) years after such taxes are due.

(4) Execution. Execution may issue upon any judgment obtained under this Article in the same manner as execution may issue in other judgments for debt, and sale shall be held under such execution as prescribed in the Rules of Civil Procedure and Statutes of this State.

(H) Seizure and Sale.

(1) Seizure and Sale. At any time within three (3) years after any person is delinquent in the payment of any amount, the Comptroller may forthwith collect the amount in the following manner: The Comptroller shall seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any interest or penalties on account of the seizure and sale. Any seizure made to collect a sales tax due shall be only of property of the vendor not exempt from execution under the laws of this State.

(2) Notice of Sale. Notice of the sale and the time and place thereof shall be given to the delinquent person in writing at least twenty (20) days before the date set for the sale in the following manner: The notice shall be enclosed in an envelope addressed to the person, in case of a sale for limited sales tax due, at his last known address or place of business, and in case of a sale for use taxes due, at his last known residence or place of business in this State. It shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least ten (10) days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three (3) public places in the county twenty (20) days prior to the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount due, including interest, penalties, and costs, the name of the delinquent, and the further statement that unless the amount due, interest, penalties, and costs are paid on or before the time

fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with the law and the notice.

(3) Bill of Sale; Deed. At the sale, the Comptroller shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the person liable for the amount.

(4) Disposition of Proceeds. If upon the sale the moneys received exceed the total of all amounts, including interest, penalties, and costs due the State, the Comptroller shall return the excess to the person liable for the amounts and obtain his receipt. If any person having an interest in or lien upon the property files with the Comptroller prior to the sale notice of his interest or lien, the Comptroller shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the Comptroller shall deposit the excess moneys with the State Treasurer, as trustee for the owner, subject to the order of the person liable for the amount, his heirs, successors, or assigns.

(I) Payment on Termination of Business and Successor's Liability.

(1) Withholding by Purchaser. If any vendor liable for any amount under this Chapter sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Comptroller showing that it has been paid or a certificate stating that no amount is due.

(2) Liability of Purchaser; Release. If the purchaser of a business or stock of goods fails to withhold purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within sixty (60) days after receiving a written request from the purchaser for a certificate, or within sixty (60) days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than ninety (90) days after receiving the request, the Comptroller shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the Comptroller of the amount that must be paid as a condition of issuing the certificate. Failure of the Comptroller to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the vendor sells out his business or stock of goods or at the time that the determination against the vendor becomes final, whichever event occurs the later.

(J) Security for Tax May be Required. In all cases where he deems that it is necessary to insure compliance with the provisions of this Chapter the Comptroller may require a cash deposit, bond, or other security as a condition to a person obtaining or retaining a permit under this Chapter. Such security shall be in the form and such amount as the Comptroller deems appropriate under the particular circumstances but shall not be in an amount in excess of four times the estimated average quarterly liability for taxes imposed by this Chapter or Fifty Thousand Dollars (\$50,000), whichever is the lesser. Any security required to be deposited may be sold by the Comptroller at public sale if it becomes necessary so to do in order to recover any tax, interest or penalty due. Notice of such sale may

be served upon the person who deposited such security personally or by mail. If by mail, notice sent to the last known address, as the same appears in the records of the Comptroller's office shall be sufficient for the purpose of this requirement. Upon such sale the surplus, if any, above the amount due under this Chapter, shall be returned to the person who deposited the security. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963

Art. 20.10. Overpayments and Refunds

(A) Certification of Excess Amount Collected: Credit and Refund. If the Comptroller determines that any amount, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Comptroller shall set forth that fact in his records, and the excess amount collected or paid may be credited on any amount then due and payable from the person under this Chapter. Any balance may be refunded to the person by whom it was paid, or his successors, administrators or executors.

(B) Claims for Refund, Credit: Limitation.

(1) No refund shall be allowed unless a claim therefor is filed with the Comptroller by the person who overpaid the tax or his attorney, assignee, executor, or administrator within three (3) years from the last day of the month following the close of the quarterly period for which the overpayment was made, or within six (6) months after any determination becomes final under paragraphs (A) through (G) of Article 20.06 or within six (6) months from the date of overpayment with respect to such determinations, whichever of these three (3) periods expires the later.

(2) No credit shall be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Comptroller within such period, or unless the credit relates to a period for which a waiver is given pursuant to paragraph (D) under Article 20.06.

(C) Claims for Refund, Credit: Form: Contents. Every claim shall be in writing and shall state the specific grounds upon which the claim is founded.

(D) Effect of Failure to File Claim: Waiver. Failure to file a claim within the time prescribed in paragraph (B) of this Article constitutes a waiver of any demand against the State on account of overpayment.

(E) Notice of Disallowance of Claim: Service. Within thirty (30) days after disallowing any claim in whole or in part, the Comptroller shall serve notice of his action on the claimant in the manner prescribed for service of notice of a deficiency determination.

(F) Injunction: Other Process to Prevent Tax Collection Prohibited. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or enjoin the collection under this Chapter of any tax or any amount of tax required to be collected.

(G) Action for Refund: Claim as Condition Precedent. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed.

(H) Action for Refund; Time to Sue; Venue of Action; Waiver.

(1) Within ninety (90) days after the mailing of the notice of the Comptroller action upon a claim filed pursuant to this Chapter, the claim-

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ant may bring an action against the Comptroller on the grounds set forth in the claim in a court of competent jurisdiction in Travis County, Texas, for recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

(2) Failure to bring action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayment.

(I) **Right of Action on Failure to Mail Notice.** If the Comptroller fails to mail notice of action on a claim within six (6) months after the claim is filed the claimant may, prior to the mailing of notice by the Comptroller of his action on the claim, consider the claim disallowed and bring an action against the Comptroller on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

(J) **Judgment for Plaintiff: Credits: Refund of Balance.**

(1) If judgment is rendered for the plaintiff the amount of the judgment shall be credited on any limited sales tax, use tax, penalties or interest due from the plaintiff and the balance of the judgment shall be refunded to the plaintiff.

(K) **Allowance of Interest.** In any judgment, interest shall be allowed at the rate of six per cent (6%) per annum upon the amount found to have been illegally collected from the date of payment of the amount to date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than thirty (30) days, the date to be determined by the Comptroller.

(L) **Recovery of Erroneous Refunds: Action: Jurisdiction and Venue.** The Comptroller may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought, within one year from the date of refund or credit, in the name of the State, in a court of competent jurisdiction in the county in which the person involved is located.

(M) **Change of Venue in Action to Recover Erroneous Refund.** The action shall be tried in the county in which the person involved is a resident unless the court with the consent of the Attorney General orders a change of place of trial.

(N) **Attorney General to Prosecute Action for Recovery of Erroneous Refund.** The Attorney General shall prosecute the action, and the provisions of State law and the Rules of Civil Procedure relating to the service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings. As amended Acts 1961, 57th Leg., 1st C.S. p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.11. Administration

Art. 20.11. Administration.

(A) **Enforcement by Comptroller: Rules and Regulations.**

(1) The Comptroller shall enforce the provisions of this Chapter and may prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of this Chapter.

(2) The Comptroller may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(B) **Employment of Accountants, Investigators and other Persons: Delegation of Authority.** The Comptroller may employ accountants, audi-

tors, investigators, assistants and clerks necessary for the efficient administration of this Chapter and may delegate authority to his representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by this Chapter.

(C) Records to be Kept by Sellers, Retailers and Others.

(1) Every seller, every retailer, and every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers in such form as the Comptroller may reasonably require.

(2) Every such seller, retailer or person shall keep such records for not less than four (4) years from the making of such records unless the Comptroller in writing sooner authorizes their destruction.

(D) Examination of Records; Investigation of Business. The Comptroller, or any person authorized in writing by him, may examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

(E) Taxpayer's Right to Keep Records Out of State. The taxpayer shall have the right to keep or store his records at a point outside this State, but, if the Comptroller wishes to examine said records, the taxpayer shall either bring the records into the State for such examination or shall reimburse the Comptroller for the increased expense of making the examination at the out-of-state location.

(F) Reports for Administering Use Tax: Contents. In administration of the use tax, the Comptroller may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property, the storage, use or other consumption of which is subject to the tax. The report shall:

(1) Be filed when the Comptroller requires.

(2) Set forth the names and addresses of purchasers of the tangible personal property, the sales price of the property, the date of sale, and such other information as the Comptroller may require.

(G) Disclosure of Information Unlawful: Examination of Records.

(1) It shall be a misdemeanor for any official or employee of the Comptroller to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and activities of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Comptroller.

However, the Comptroller may, by general or special order, authorize examination by other State officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person of the records maintained by the Comptroller under this Chapter.

Nothing herein contained shall be construed to prevent: The delivery to a taxpayer, or his duly authorized representative, of a copy of any report or other paper filed by him pursuant to the provisions of this Chapter; the publication of statistics so classified as to prevent the identification of a particular report and the items thereof; the use of such records, reports,

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or information secured, derived, or obtained by the Attorney General or the Comptroller under the terms of this Chapter in any action against the same taxpayer for a penalty or any tax due under any provision of this Chapter.

(2) Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties. As amended Acts 1961, 57th Leg., 1st C.S. p. 71, ch. 24, art. I § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.12. Violations

(A) **Penalty for Engaging in Business as Seller Without Permit.** A person who engages in business as a retailer in this State without a permit or permits or after a permit has been suspended, and each officer of any corporation which so engages in business, is guilty of a misdemeanor, and such person shall upon conviction be fined not more than Five Hundred Dollars (\$500) for each conviction. Each day of such operation shall constitute a separate offense.

(B) **Penalty for Improper Use of Resale Certificate.** Any person who gives a resale certificate to the seller for property which he knows, at the time of purchase, is purchased for the purpose of use rather than the purpose of resale, lease or rental by him in the regular course of business is guilty of a misdemeanor and such person shall upon conviction be fined not more than Five Hundred Dollars (\$500) for each conviction.

(C) **Penalty for Failure to Make Return, Furnish Data.** Any retailer or other person who refuses to furnish any return required to be made, or who refuses to furnish a supplemental return or other data required by the Comptroller, shall be guilty of a misdemeanor, and shall upon conviction be fined not more than Five Hundred Dollars (\$500) for each conviction.

(D) **Penalty for Other Violations.** Any violation of this Chapter, except as otherwise provided, is a misdemeanor, and any person shall, when found guilty of such violation, be fined not more than Five Hundred Dollars (\$500) for each violation.

(E) **Statute of Limitations.** Any prosecution for violation of any of the penal provisions of this Chapter shall be instituted within four (4) years after the commission of the offense. As amended Acts 1961, 57th Leg., 1st C.S. p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.13. Disposition of Proceeds

All fees, taxes, interest and penalties imposed, and all amounts of tax required to be paid to the State under this Chapter shall be paid to the Comptroller in the form of remittances payable to the Comptroller of Public Accounts of Texas. The Comptroller shall remit all fees, taxes, interest and penalties collected to the State Treasurer to be deposited in the State Treasury in the following manner:

(1) The State Treasurer shall deposit all proceeds from the taxes imposed by this Chapter to the credit of the General Revenue Fund except that portion of the proceeds which the Comptroller of Public Accounts

shall certify arises from the application of the taxes imposed by this Chapter to the sale and use of lubricating oils and motor oils consumed on the public roads, streets and highways of this State.

(2) The State Treasurer shall deposit to the credit of the State Highway Fund so much of the proceeds of the taxes imposed by this Chapter as the Comptroller shall certify arises from the application of the taxes imposed by this Chapter to the sale and use of lubricating oils and motor oils used to propel motor vehicles over the public roadways.

The amount to be deposited to the credit of the State Highway Fund shall be determined by the Comptroller based on available statistical data indicating the estimated average or actual consumption or sales of lubricants used to propel motor vehicles over the public roadways. In the event that satisfactory statistical data as to such consumption or use of lubricants is not available the Comptroller may, at his discretion, require that taxpayers making taxable sales or use of such lubricants in this State furnish such information to the Comptroller as is necessary to make the appropriate allocations required under this Article. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.14. Remedies of State are Cumulative

The remedies of the State provided for in this Chapter are cumulative and no action taken by the Comptroller or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this Chapter. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.15. Comptroller's Authority

In all proceedings under this Chapter the Comptroller may act for and on behalf of the people of the State of Texas. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.16. Res Judicata

In the determination of any case arising under this Chapter the rule of res judicata is applicable only if the liability involved is for the same quarterly period as was involved in another case previously determined. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

Art. 20.17. Tax Suit Comity

The courts of this State shall recognize and enforce liabilities for sales and use taxes lawfully imposed by any other state, provided that such other state extends a like comity to this State. As amended Acts 1961, 57th Leg., 1st C.S., p. 71, ch. 24, art. I, § 1; Acts 1963, 58th Leg., p. 371, ch. 138, § 1.

Effective July 1, 1963.

TITLE 125A—TRUSTS AND TRUSTEES

Art. 7425b—10. Loan of trust funds

Except as provided in Section 11 of this Act, a corporate trustee shall not lend trust funds to itself or an affiliate (as defined herein), or to any director, officer or employee of itself or of an affiliate; nor shall any non-corporate trustee lend trust funds to himself, or to his relative, employer, employee, partner, or other business associate; provided, however, that nothing contained in this Act shall prohibit any trustee from lending such funds to any beneficiary of a trust when so authorized or directed by the express terms of the instrument or transaction by which such trust was established. As amended Acts 1963, 58th Leg., p. 133, ch. 80, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 126—TRUSTS—CONSPIRACIES AGAINST TRADE

Savings Provision

Acts 1963, 58th Leg., p. 598, ch. 218, which regulates vegetable dealers, and which is incorporated in the Revised Civil Statutes as article 1287—3, §§ 1-24, provides in section 23 that nothing in the Act shall be construed as amending, modifying, suspending or repealing any of the laws of this State defining and prohibiting trusts, monopolies, and conspiracies against trade, with particular reference to Title 126 of the Revised Civil Statutes.

TITLE 128—WATER

I. IRRIGATION AND WATER RIGHTS

CHAPTER ONE—USE OF STATE WATER

Art. 7471. Priority in appropriation of water

Saved from Repeal

Acts 1963, 58th Leg., p. 816, ch. 312, which creates the Lake Dallas Municipal Utility Authority, and which is incorporated in the Civil Statutes as article 8280—293, provides, in section 21, that nothing in the act shall be interpreted as amending or repealing this article.

Art. 7472d. Surveys to disclose measure and potential availability of water resources

Chief engineer, powers, duties and functions, see art. 7477, § 2.

Art. 7474. Forfeiture of rights

Chief engineer, powers, duties and functions, see art. 7477, § 2.

Art. 7475. Water division

Texas water commission, appointment of members from water divisions, see art. 7477, § 1.

Art. 7477. Texas Water Commissions; chief engineer; duties, powers and functions

(1) The name of the Board of Water Engineers, created and constituted by the Acts of the Thirty-third Legislature, Chapter 171, General Laws, approved April 9, 1913, is hereby changed to the Texas Water Commission, hereinafter sometimes called the 'Commission,' and the members constituting the Board of Water Engineers shall continue in office for the respective terms for which they were appointed, and until their successors are appointed and have qualified. Except as otherwise herein provided, all provisions of existing statutes referring to the Board of Water Engineers shall hereafter have reference to the Texas Water Commission. Said Commission shall be composed of three (3) members, one of whom shall be appointed from each of the respective water divisions described in Article 7475 of the Revised Civil Statutes of Texas, 1925. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(2) The members of said Commission shall be appointed by the Governor, by and with the advice and consent of the Senate, and each shall hold office for a term of six (6) years, and until his successor is appointed and has qualified. Provided, that the person appointed to the term beginning in August, 1963, shall serve for a period ending February 1, 1969; the person appointed to the term beginning in August, 1965, shall serve for a period ending February 1, 1971, and the person appointed to the term beginning in August, 1967, shall serve for a period ending February 1, 1973. No person shall be appointed a member of the Commission who has

not such technical knowledge and such practical experience and skill as shall fit him for the duties of the office. Each shall be a citizen of this State and a bona fide resident of the water division from which he is appointed. Each member of the Commission shall qualify by taking the official oath of office as prescribed by law, and by executing an official bond payable to the State of Texas in the sum of Ten Thousand Dollars (\$10,000) in accordance with the provisions of the State Employee Bonding Act. Members of the Commission shall serve on a full-time basis. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(3) On or before February 1st of 1962 and on or before February 1st of each odd-numbered year thereafter, the Governor shall designate one member of said Commission who shall serve as Chairman for a two-year term ending January 31st of the following odd-numbered year and until his successor is appointed. Vacancies in the office of Chairman shall be filled by the Governor for the unexpired term. The Chairman shall preside at all meetings of the Commission and shall have authority to issue notices of public hearings authorized by the Commission, to approve payrolls for the Commission, and to approve purchase requisitions and vouchers for necessary supplies, equipment and services for the Commission. Except as the Commission may otherwise direct, the Chairman shall be the Chief Administrative Officer of the Commission with authority to employ, assign and reassign duties, adjust salaries of, and discharge from employment, all employees of the Commission within the limits of appropriation bills enacted by the Legislature and to direct the general administration of the office of the Commission. The Chairman may designate another member of the Commission to act for him in his absence or inability to serve, failing which, the other two (2) members may designate an Acting Chairman. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(4) The Commission shall employ a Chief Engineer to serve until he is removed by the Commission. He shall be a Registered Professional Engineer under the laws of the State of Texas and shall have such practical experience and such qualifications as the Commission may require. He shall execute an official bond payable to the State of Texas in the sum of Ten Thousand Dollars (\$10,000) in accordance with the provisions of the State Employee Bonding Act.

The Chief Engineer shall be responsible to the Commission for the following in addition to any other assignments which may be made to him by the Commission:

(a) Making investigations and studies and collecting data and information on the occurrence, quantity, quality and availability of the surface waters and ground waters within the State, including particularly the technical duties and functions set forth in Articles 7472d, 7524, 7527, 7528, and 7537a, Vernon's Annotated Texas Civil Statutes;

(b) Developing and keeping current a comprehensive and co-ordinated plan and program for the orderly development of the water resources of the State in the accomplishment of the purposes and objectives of Article 7472d, Vernon's Annotated Texas Civil Statutes, and of the Texas Water Planning Act of 1957 (Article 7472d—1, Vernon's Annotated Texas Civil Statutes);

(c) After consultation with and approval by the Commission, negotiating and executing agreements with other State agencies, political subdivisions and municipal corporations of the State, Federal agencies, and private persons and corporations for co-operative or joint studies and in-

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

vestigations of the occurrence, quantity and quality of the surface and ground waters of the State, the topographical mapping of the State, and the collection, processing and analysis of other basic data relating to the development of the water resources of the State, and the administration and performance of such agreements;

(d) Collecting, receiving, analyzing and processing basic data concerning the water resources of the State;

(e) Carrying on the program for topographic and geologic mapping of the State;

(f) Reviewing, analyzing and advising with the Commission in regard to all projects submitted to the Commission for certification under Sections 12 and 18 of the Texas Water Development Board Act (Article 8280—9, Vernon's Annotated Texas Civil Statutes) and inspecting the construction of projects as provided in said Section 18;

(g) Reviewing, analyzing and making recommendations to the Commission in regard to engineering reports by Federal agencies submitted to the Commission in accordance with Article 7472—e, Vernon's Annotated Civil Statutes of Texas;

(h) Reviewing, analyzing and making recommendations to the Commission in regard to presentations filed under Article 7496, Vernon's Annotated Texas Civil Statutes; all applications to the Commission for permits, or amendments thereto, to appropriate public waters and/or to construct works for the impoundment, diversion and transportation of public waters; and all applications, or amendments thereto, to construct and operate waste disposal wells;

(i) Reviewing, analyzing and making recommendations to the Commission in regard to the reclamation duties, responsibilities, and functions of the Commission pursuant to Chapter 115, Acts of the Fifty-seventh Legislature, Regular Session, 1961¹;

¹ Article 5421h—2.

(j) Reviewing, analyzing and making recommendations to the Commission in regard to the approval of master plans and other reports of conservation districts, river authorities and other State agencies in all cases where approval of the Commission is required by law or requested by said districts, authorities or agencies;

(k) Providing forms for analyzing and filing with the Commission reports required by Articles 7612, 7614 and 7615, Vernon's Annotated Texas Civil Statutes;

(l) Reviewing, analyzing and making recommendations to the Commission in regard to any proceedings for the cancellation and forfeiture, in whole or in part, of permits and certified filings for the appropriation of public waters as provided in Articles 7474, 7519, 7519a, 7519b and 7544, Vernon's Annotated Texas Civil Statutes;

(m) Aiding, advising and assisting the Commission in proceedings for the creation of conservation and reclamation districts;

(n) Aiding, advising and assisting the Commission in carrying out the duties, powers and functions heretofore vested in the Board of Water Engineers by Article 7799 and Article 7880—139, Vernon's Annotated Texas Civil Statutes, relating to projects of water improvement districts and water control and improvement districts;

(o) Evaluating, preparing for publication, publishing and reproducing engineering, hydrologic and geologic data, information and reports relating to the water resources of the States;

(p) Aiding, advising, and assisting the Commission in the designation, in accordance with the provisions of Article 7880—3c, Vernon's Annotated Texas Civil Statutes, of underground water reservoirs or subdivisions thereof;

(q) Determining the silt load of streams and making investigations and studies of the duty of water and surveys to determine the water needs of the distinct regional divisions of the watershed areas of the State;

(r) Aiding, advising and assisting the Commission, at its request, in regard to other engineering, hydrologic and geologic matters. It is specifically provided that the Chief Engineer or designated employees under his direction shall have the right to appear and, if the Commission directs, shall appear, and present evidence at all public hearings held by the Commission for any purpose involving matters affecting the public interest;

(s) Performing other technical engineering, hydrologic and geologic functions in the administration of the water resources of the State. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(5) The Commission may, by means of administrative orders which shall be recorded in its minutes, delegate to the Chief Engineer the authority to employ, assign, reassign, promote, demote and adjust salaries of and discharge from employment, all employees and personnel authorized by the appropriation bills enacted by the Legislature to be employed for the performance of the duties of the Commission which are herein made the responsibility of the Chief Engineer under the direction of the Commission, including the authority to approve payrolls for personnel under his supervision, purchase requisitions for necessary supplies, equipment and services, and vouchers in payment therefor; provided, however, that all such actions relating to personnel shall be made in conformity with the Position Classification Act of 1961, as amended, and in conformity with the limitations set forth in appropriation bills enacted by the Legislature. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(6) The Chief Engineer shall employ an Assistant Chief Engineer, who shall have first been approved by the Commission, and who shall have the same qualifications as are required of the Chief Engineer in Subsection (4) herein. In the absence of the Chief Engineer, or in the case of his inability to act, the Assistant Chief Engineer shall perform the duties devolving upon the Chief Engineer. At other times, he shall perform such duties and have such functions and authority as may be delegated to him by the Chief Engineer. He shall make a bond in the same amount and with the same conditions as is required of the Chief Engineer. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(7) The Commission shall employ a Secretary at a salary to be fixed by the Legislature in appropriation bills passed by it, and who shall execute a bond in the sum of Ten Thousand Dollars (\$10,000) in accordance with the provisions of the State Employee Bonding Act. The Secretary shall keep full and accurate minutes of all meetings of the Commission and complete records of all its proceedings and transactions and of every ruling, order and decision made by it. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(8) The Commission shall hold regular meetings on dates specified by order of the Commission entered upon its minutes. Special meetings may be held at such times and places within the State as said Commission may deem necessary and proper in the performance of its duties. Two (2) members of said Commission shall constitute a quorum for the transaction of business at any regular or special meeting. A quorum shall be present

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at all times during any hearing conducted under the provisions of this Chapter, and the Chairman or Acting Chairman shall preside at all such hearings. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(9) The Commission and the Chief Engineer shall jointly make biennial reports in writing to the Governor as provided in Article 7526, Revised Civil Statutes of Texas, 1925, in which shall be included statements of their activities, the data and information collected, and such suggestions as to the amendment of existing laws and the enactment of new laws as they may deem desirable. All data collected by the Chief Engineer and the Commission shall be the property of the State of Texas. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(10) The members of the Commission and its employees shall receive such compensation as may be prescribed by the Legislature in appropriation bills enacted by it and shall be entitled to receive from the State their necessary traveling expenses while traveling on official business, upon an itemized statement, sworn to by the parties who have incurred the expense, and approved by the Chairman of the Commission or the Chief Engineer, as the case may be. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(11) The Attorney General shall be the legal advisor of the Commission and shall represent the Commission in litigation to which they may be a party; provided, that in addition, the Chairman of the Commission, subject to the written consent of the Attorney General of this State, may employ other legal counsel regularly, or may engage their services temporarily. Such legal counsel shall advise the members of the Commission and the Chief Engineer in regard to official business. Suits to enforce any provision of this Chapter may be prosecuted in the courts of the State by the Attorney General. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(15) The Commission in making investigations, surveys and studies, and in performing other duties prescribed by this Chapter, may cooperate with agencies of the United States, with other agencies of this State or of any other State, with political subdivisions and municipal corporations of the State and with persons and corporations. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

(16) Upon the application of any person and upon payment of the fees prescribed therefor in the Rules and Regulations of the Commission, the Commission shall furnish certified copies of any proceedings or any other official act of record, or of any paper, map, or document filed in the office of the Commission, in connection with the appropriation of water, determination of water rights, or administration of water rights. Such certified copies under the hand of the Chairman or the Secretary of the Commission as to records in the custody of the Commission, and the seal of the Commission, shall be admissible as evidence in any court or administrative proceeding, in the same manner and with like effect as the original would be. As amended Acts 1962, 57th Leg., 3rd C.S., p. 10, ch. 4, § 1.

Emergency. Effective Jan. 30, 1962.

Art. 7519. Time required

Chief engineer, powers, duties and functions, see art. 7477, § 2.

Art. 7524. Measurements and calculations

Chief engineer, powers, duties and functions, see art. 7477, § 2.

Art. 7526. Biennial reports of board

Biennial report of Texas water commission, see art. 7477, § 9.

Arts. 7527, 7528

Chief engineer, powers, duties and functions, see art. 7477, § 2.

Art. 7544. Appropriation forfeited

Chief engineer, powers, duties and functions, see art. 7477, § 2.

Art. 7589. Unlawful to divert water**Saved from Repeal**

Acts 1963, 58th Leg., p. 73, ch. 49, amending Article 8280—9, repeals conflicting laws but expressly provides that Articles 7589, 7590, and 7591, shall not be repealed thereby.

Texas water development board, acquisition of conservation storage facilities, see art. 8280—9, § 21-a.

Art. 7590. Application for permit**Saved from Repeal**

Acts 1963, 58th Leg., p. 73, ch. 49, amending Article 8280—9, repeals conflicting laws but expressly provides that Articles 7589, 7590, and 7591, shall not be repealed thereby.

Art. 7591. Penalty to divert waters from natural streams, etc.**Saved from Repeal**

Acts 1963, 58th Leg., p. 73, ch. 49, amending Article 8280—9, repeals conflicting laws but expressly provides that Articles 7589, 7590, and 7591, shall not be repealed thereby.

Texas water development board, acquisition of conservation storage facilities, see art. 8280—9, § 21-a.

Arts. 7614, 7615

Chief engineer, powers, duties and functions, see art. 7477, § 2.

CHAPTER TWO—WATER IMPROVEMENT DISTRICTS**Art. 7799. Board of Water Engineers to investigate**

Chief engineer, powers, duties and functions, see art. 7477, § 2.

Art. 7807d. Water Improvement Districts and Water Power Control Districts; organization and powers; provisions to govern**Term of directors; vacancy in office; compensation**

Sec. 10. The Directors so first elected or appointed shall serve as such Directors until the first Tuesday in April, 1934, and until their successors are elected or appointed and qualified. There shall be elected a Board of Directors for all such Water Power Control Districts on the first

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

Tuesday in April, 1934, whose term of office shall be for a term of two (2) years and until their successors are elected and qualified, and such Directors shall be selected on such day each two (2) years thereafter, and shall qualify and assume the duties of their office within thirty (30) days after such date. In the event of vacancy in the office of a Director of a Water Power Control District, a successor shall be elected, provided in such special election notice of holding such election shall be given and published for fifteen (15) days prior to the day of such election.

The Directors shall receive as compensation for their services the sum of Twenty-five Dollars (\$25) per day for each and every day necessarily taken in the discharge of their duties, plus actual expenses of travel, food, lodging and incidentals in the discharge of such duties. Before a warrant shall be issued for payment of such services, the Directors shall file with the secretary for the district, on the last Saturday in each month or as nearly thereafter as practicable, a statement, verified by affidavit, of the number of days actually taken by them in the service of the district. As amended Acts 1963, 58th Leg., p. 734, ch. 272, § 1.

Effective 90 days after May 24, 1963,
date of adjournment.

CHAPTER THREE A—WATER CONTROL AND IMPROVEMENT DISTRICTS

Art. 7880—54. Tax assessor and collector

Assessor, collector and equalization board acting for included municipality or district, see art. 1066b.

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

III. DRAINAGE

CHAPTER SEVEN—DRAINAGE DISTRICTS

Art. 8193—1. Abolition of drainage districts in counties having flood control or conservation or reclamation district

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

IV. CONSERVATION AND RECLAMATION

CHAPTER EIGHT—CREATION OF DISTRICTS

Art. 8197. Indebtedness

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

Art. 8197c. Regulating levying taxes in drainage districts

Districts wholly within incorporated cities bordering Gulf of Mexico, assessment and collection of taxes, see art. 8280—10.

V. NAVIGATION

CHAPTER NINE—NAVIGATION DISTRICTS

Art. 8263e. Creating self-liquidating and supporting districts; bond issues; authorizing loans from Reconstruction Finance Corporation**Contracts; competitive bids; advertising**

Sec. 66. No contract calling for or requiring the expenditure or payment of Two Thousand Dollars (\$2,000) or more out of any fund or funds of any district shall hereafter be made by the navigation and canal commissioners of any district without first submitting such proposed contract to competitive bids. Notice of the time and place when and where such contracts shall be let shall be published in one or more newspapers of general circulation in the State of Texas, one of which shall be a newspaper published in the county in which the district is located, if there be a newspaper published in such county, once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting such contract, and said contract shall be let to the lowest and best responsible bidder. The navigation and canal commissioners shall have the right to reject any and all bids and, if the contract is for the construction of a public improvement, then the successful bidder shall be required to give the statutory bonds required by the provisions of Article 5160, Revised Statutes, 1925, and amendments thereto. Provided that nothing in this Section shall affect improvement or improvements carried out and performed by the Government of the United States as herein provided and provided further that, in case of public calamity or an emergency where it becomes necessary to act at once to preserve the property of any such district or in case of unforeseen damage to district property, machinery or equipment or the necessity for emergency repairs thereto, this provision shall not apply; and provided further, that it shall not be applied to contracts for personal or professional services, nor to work done by any district and paid for by the day as such work progresses. As amended Acts 1963, 58th Leg., p. 1257, ch. 482, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8264. [6299] [3790] Governor to appoint

The Governor shall appoint, with the consent of the Senate, for each port whose population and circumstances warrant it, for all of the ports in Galveston County and Brazoria County, a board of five persons of respectable standing under the denomination of 'commissioners of pilots' for such port or ports, who shall be commissioned by the Governor for the term of two years; and the Governor shall, during the recess of the Legislature, be authorized to suspend, until the next session of the same, any of said commissioners, and to fill, until the same period, any vacancies in the board caused by death, resignation or otherwise. No member of the board of commissioners shall be directly or indirectly pecuniarily interested in any pilot boat or branch pilot in the business of their trust. As amended Acts 1963, 58th Leg., p. 1177, ch. 462, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

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Art. 8267. [6302] [3793] Regulations and rates

Rate of pilotage, see art. 8274.

Art. 8269. [6304] [3795] Boards in small ports

Rate of pilotage, see art. 8274.

Art. 8270. [6305] [3796] Appointment

The Governor shall appoint at each of the ports and for all of the ports in Galveston County, such number of branch pilots as may from time to time be necessary, each of whom shall hold his office for the term of two (2) years. As amended Acts 1963, 58th Leg., p. 1178, ch. 463, § 1.

Emergency. Effective June 10, 1963.

Art. 8274. [6309], [3800] Pilotage

The rate of pilotage, which may be fixed under Articles 8267 and 8269, on any class of vessels shall not, in any port of this state (except as hereinafter provided) exceed Six Dollars (\$6.00) for each foot of water which the vessel at the time of piloting draws, and such rate shall not, in the ports and/or terminals located above the junction of the Neches River with the Sabine-Neches Canal, exceed Seven Dollars (\$7.00) for each foot of water which the vessel at the time of piloting draws; and whenever a vessel, except of the classes below excepted, shall decline the services of a pilot offered outside the bar, and shall enter the port without the aid of one, she shall be liable to the first pilot whose services she so declined for the payment of half pilotage; and any vessel which after being brought in by a pilot, shall go out without employing one, shall be liable to the payment of half pilotage to the pilot who brought her in, or if she has come in without the aid of a pilot, though offered outside, she shall on so going out be liable for the payment of half pilotage to the pilot who had first offered his services before she came in; but if she has come in without the aid of a pilot, or the offer of one outside, she shall not, in case of going out without a pilot, be liable to half pilotage. At any port where vessels shall receive or discharge their cargoes at an anchorage outside of the bar, such vessel shall be liable to pilotage at the above rate to such anchorage, but shall not be liable for or compelled to pay pilotage from such anchorage to the open sea; and if any vessel bound from open sea to such anchorage, while under way, shall decline the services of a pilot, and shall afterward receive or discharge any portion of her cargo at such anchorage on the lighters or otherwise, she shall be liable for the payment of half pilotage, at the above rate, to such anchorage to the first pilot whose services shall have been tendered to and declined by her, but not liable for any pilotage from such anchorage to the open sea; and when a pilot takes charge of a vessel twenty (20) miles outside of the bar, and brings her to it, he shall be entitled to one-fourth ($\frac{1}{4}$) pilotage for such off-shore service, in addition to what he is entitled to recover for bringing her in, but if such off-shore service be declined, no portion of said compensation shall be recovered. As amended Acts 1955, 54th Leg., p. 648, ch. 224, § 1; Acts 1959, 56th Leg., p. 33, ch. 21, § 1; Acts 1961, 57th Leg., 1st C.S., p. 36, ch. 14, § 1; Acts 1963, 58th Leg., p. 1173, ch. 459, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

VI. GENERAL PROVISIONS

CHAPTER ELEVEN—IN GENERAL

Art. 8280—7. Water districts; filing certified copies of act or order creating or altering boundaries; public inspection; penalties

Standard fees of office for directors of river authorities, see art. 3946a.

Acquisition of conservation storage facilities

Sec. 21-a. (1) With the approval of the Texas Water Commission, the proceeds from the sale of state bonds deposited in the Texas Water Development Fund as provided in Article III, Section 49-c of the Constitution of Texas may be used by the Texas Water Development Board for the additional purposes of acquiring and developing storage facilities, for the conservation and development of water for useful purposes in and from reservoirs constructed or to be constructed or enlarged within the State of Texas or on any stream constituting a boundary of the State of Texas, by any one or more of the following governments or governmental agencies; by the United States of America or any agency, department or instrumentality thereof; by political subdivisions or bodies politic and corporate of the state; by interstate compact commissions to which the State of Texas is a party; and by municipal corporations. As used herein the term "storage facilities" shall include any one or more of the following: (a) the whole or a definable part or portion of a dam and reservoir, whether existing or planned, in which water may be stored for conservation and development for useful purposes; or (b) the right to use any such dam and reservoir, whether existing or planned, or a definable part or portion thereof for storage of water and development thereof for useful purposes.

(2) The Texas Water Development Board may also, with the approval of the Texas Water Commission, execute long-term contracts with the United States or any of its agencies for the acquisition and development of storage facilities in reservoirs constructed or to be constructed by the Federal Government. Such contracts when executed shall constitute general obligations of the State of Texas in the same manner and with the same effect as state bonds issued under the authority of Article III, Section 49-c of the Constitution of Texas, and the provisions in said Section 49-c with respect to payment of principal and interest on state bonds issued shall likewise apply with respect to payment of principal and interest required to be paid by such contracts. The Texas Water Development Board shall determine the terms, provisions and conditions of such contracts; subject, however, to the limitations and directions contained in this Act and in Article III, Section 49-d of the Texas Constitution. It is expressly provided that no contract shall be executed by the Board with the United States or any of its agencies wherein storage facilities or their use are acquired for a term of years only, and each of such contracts shall contain provisions and conditions to the effect that when the state has fulfilled its obligations under such contract, the state shall have a permanent right in such storage facilities or in their use, so long as such storage facilities may be physically available, subject only, if the project of which such storage facilities are a part is then operated by the United States, to payment by the state of reasonable operation, maintenance and administrative charges allocable to such acquired storage facilities; and, in addition, such contract may pro-

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vide for the state to bear its share of the cost of any necessary reconstruction, rehabilitation or replacement of project features which may be required to continue satisfactory operation of the project. It is further provided that no contract between the Board and the United States or any of its agencies for the acquisition and development of storage facilities in reservoirs constructed or to be constructed by the Federal Government shall be executed unless such contract shall reserve unto the State of Texas the right of development and control of recreational facilities by the State of Texas or its political subdivisions, except for reservoir recreation areas of national significance which the United States proposes to develop and administer for the public use and benefit.

(3) The authority of the Texas Water Development Board to acquire storage facilities shall be limited to a maximum total amount as to principal obligations which may be incurred of Fifty Million Dollars (\$50,000,000) and not to exceed Fifteen Million Dollars (\$15,000,000) for storage facilities in any single project. State funds shall not be expended for the purposes herein authorized when, and to the extent that, any political subdivision of the state is willing and able to finance, or assume the obligation of repaying, the costs of providing or acquiring such storage facilities, provided such political subdivision has qualified by obtaining any permit required under the laws of Texas to provide or acquire such storage facilities.

(4) The Texas Water Commission, following public hearing with notice and procedure in the same manner as an application for a permit to appropriate public water, shall give its approval for the Water Development Board to acquire and develop storage facilities or to contract with the United States therefor, whenever it shall affirmatively find:

(a) That such acquisition of storage facilities will result in optimum development of the site of the project;

(b) That the project is feasible, based on investigations and studies including the estimated cost of construction, operation and maintenance, and the quantity and quality of water to be developed;

(c) That there is a bona fide foreseeable future need for the water to be provided by the storage facilities to be acquired;

(d) That the facilities to be acquired will contribute to the orderly development of the water resources of Texas; and

(e) That the public interest will be served thereby.

(5) The Texas Water Development Board, before acquiring storage facilities in any reservoir in any manner, shall affirmatively find:

(a) That the Texas Water Commission has granted its approval for such acquisition of storage facilities;

(b) That it is reasonable to expect the state to recover its investment in such facilities;

(c) That the cost of such storage facilities to be acquired exceeds current financing capabilities of the area involved and that such facilities cannot be otherwise financed by local interests without state participation; and

(d) That the public interest will be served thereby.

(6) The Water Development Board, after having acquired storage facilities in any reservoir, is hereby authorized and empowered to sell, transfer or lease, in whole or in part, any acquired storage facilities or the right to use such storage facilities, provided that the applicant therefor shall have first secured a valid permit from the Texas Water Commission

or its successor authorizing the acquisition or right of use of such storage facilities, which permit may be for a term of years if the facilities are leased. If the application for a permit involves a proposed use of water either within or outside of the watershed of the impoundment, the Texas Water Commission shall give paramount consideration to recouping the state's investment in granting any permit in order to protect the public interest and promote the general welfare. Before the permit shall be issued by the Texas Water Commission, the applicant shall have completed contractual negotiations with the Water Development Board for the acquisition of such facilities and all terms, conditions and provisions of such contract shall have been agreed upon by the parties thereto. Reservoir lands which may have been acquired may be leased by the Board prior to completion of construction of any dam without the necessity of a permit being issued by the Water Commission. It is further provided that such sale, transfer or lease shall be at a price not less than the direct cost of the Board in acquiring same. "Direct cost" of such storage facilities shall mean the principal amount the Board pays or agrees to pay for such storage facilities. "Direct cost of the Board in acquiring same" shall mean the amount theretofore paid by the Board on the "direct cost" of such storage facilities.

In selling or transferring the state's interest in storage facilities in reservoirs acquired from the proceeds of Texas Water Development Board Bonds, the price shall be the sum of the "direct cost of the Board in acquiring same," as such term is defined above, plus an interest charge computed at a rate of one-half ($\frac{1}{2}$) of one per cent (1%) per annum from the date of purchase of the storage space by the Board, plus interest annually at the cumulative average effective rate on all Texas Water Development Board Bonds sold up to the date of the sale of the storage space, plus the Board's cost of operating and maintaining the facilities being sold or transferred from the date of acquisition to the date of transfer, less any payments received by the Board from the lease of such storage facilities or the sale of water therefrom.

In selling or transferring the state's interest in storage facilities acquired under long term contracts with the Federal Government, the price shall be the sum of the "direct cost of the Board in acquiring same," as such term is defined above, plus an interest charge thereon of one-half ($\frac{1}{2}$) of one per cent (1%) per annum from the date of purchase of the storage space by the Board, plus interest at the cumulative average effective rate on all Texas Water Development Board Bonds sold up to the date of the sale of the storage space for each of those years or portions of years in which the Board paid interest to the Federal Government, plus the Board's cost of operating and maintaining the facilities being sold or transferred from the date of acquisition to the date of transfer, less any payments received by the Board from the lease of such storage facilities or the sale of water therefrom. If the Board in transferring any contract between it and the Federal Government, remains in any way directly, conditionally or contingently liable or responsible for the performance of any part of the contract assigned or transferred then the assignee or purchaser shall in addition to the payments above set forth pay to the Board annually one-half ($\frac{1}{2}$) of one per cent (1%) of the remaining amount owing to the Federal Government and such payment shall continue until the Board is fully and completely released from such contract.

In leasing such storage facilities for a term of years, each annual payment which shall be made by the lessee shall be not less than the annual principal and interest requirements applicable to the indebtedness incur-

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red by the state allocated to acquisition of the facilities being leased, plus the state's annual cost for the project's operation, maintenance and rehabilitation, if the project has been rehabilitated.

(7) As a condition precedent to selling, transferring or leasing, in whole or in part, any acquired storage facilities or the right to use such storage facilities, the Texas Water Development Board shall affirmatively find:

(a) That the applicant therefor has a valid permit from the Texas Water Commission;

(b) That such sale, transfer or lease will contribute to the conservation and development of the water resources of Texas; and

(c) That the consideration for same is fair, just and reasonable and in full compliance with all requirements of law.

(8) The money received from any sale, transfer or lease of any acquired storage facilities shall be used to pay principal and interest on state bonds issued or to meet contractual obligations incurred by the Texas Water Development Board. Such moneys shall be collected, deposited in, and transferred to the appropriate statutory fund of the Board in the same manner as other moneys received in payment of principal and interest on loans to political subdivisions made by the Board for water supply projects, taking into consideration the manner in which the storage facilities involved were acquired; that is, either by use of bond proceeds or by contract, as the case may be. When the moneys are sufficient to pay the full amount of indebtedness then outstanding (which shall include state bonds issued and the principal on contractual obligations incurred) and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of acquired storage facilities may be used by the Board for the acquisition of additional storage facilities or for providing financial assistance to political subdivisions for water supply projects.

(9) The Texas Water Development Board is hereby authorized and empowered to store unappropriated public waters of the state in the storage facilities that have been acquired. The Board is further authorized and empowered to sell any unappropriated public waters of the state that might be stored in any storage facilities acquired by the Board and under the Board's control. The price for water sold shall be fixed and determined at an amount not less than a sum determined by taking into account the same costs prescribed in subsection (6) hereof for selling the state's interest in storage facilities acquired hereunder. As a prerequisite to the purchase of such water, the applicant therefor shall have secured a valid permit from the Texas Water Commission authorizing the appropriation and use of the water impounded in such storage facilities, and the rights of the applicant in such water and its use shall be governed by the terms and conditions of such permit. The permit may be for a term of years. If the application for a permit involves a proposed use of water either within or outside of the watershed of the impoundment, the Texas Water Commission shall give paramount consideration to recouping the state's investment in granting any permit in order to protect the public interest and promote the general welfare. Before the permit shall be issued by the Texas Water Commission, the applicant shall have completed contractual negotiations with the Water Development Board for the sale of water and all terms, conditions and provisions of such contract shall have been agreed upon by the parties thereto. The permit shall be conditioned upon continued payment of the obligations assumed under the contract with the Board and may provide for cancellation at any time upon contract default. The Water Development Board is authorized to determine the considera-

tion, terms, provisions and conditions to be included in contracts for the sale of water or its use, but such consideration, terms, provisions and conditions shall be fair, reasonable and without discrimination. Included in the services for which the Board may make charges is that of standby service, which is hereby defined to mean holding water and conservation storage space available for use, as well as for the actual delivery of water. The Board shall not compete with political subdivisions of the state and municipalities in the sale of water when such competition will jeopardize the ability of a political subdivision or municipality to meet obligations incurred to finance its own water supply projects. The Board will make the same determinations with respect to the sale of water as are required to be made in paragraph (7) hereof relating to selling, transferring or leasing storage facilities. Money received from the sale of water and standby service needed for operation and maintenance of acquired facilities shall be deposited in the Storage Facilities Operation and Maintenance Fund, which Fund is hereby created as a special fund in the State Treasury, and such Fund may be used by the Board for the operation and maintenance of acquired facilities, and the Legislature may also appropriate available state funds for such purpose. Money received from the sale of water not needed for operation and maintenance of storage facilities may be used for the payment of principal and interest on state bonds issued or contractual obligations incurred by the Board in acquiring storage facilities. Unappropriated public waters stored in any storage facilities acquired by the Board and under the Board's control may be released without charge to relieve any emergency condition that may arise due to drouth, severe water shortage or public calamity provided, that the Texas Water Commission shall have first determined the existence of such emergency and requested the Board to make releases of water.

(10) Political subdivisions (as that term is defined in Section 2 of Chapter 425, Acts of the 55th Legislature, Regular Session, 1957) shall be accorded a preferential right, but not an exclusive right, to purchase, acquire or lease storage facilities, or to purchase water in storage, from the Board. Priority in the sale, transfer or lease of storage facilities, or in the sale of water, shall also be accorded in the manner established by Article 7471 and Article 7472(c), Revised Civil Statutes of Texas, 1925, as amended, or as may be hereafter amended, relating to priorities and preferences in the appropriation and use of public waters. The Water Development Board and the Texas Water Commission shall coordinate their efforts to meet these objectives and to assure that the public waters of the state, which waters are held in trust for the use and benefit of the public, will be conserved, developed and utilized in the greatest practicable measure for the public welfare.

(11) The Texas Water Development Board is authorized to enter into contracts under the terms of which those owning facilities in the same reservoir may operate and maintain the state's storage facilities in such reservoir and under which the state, acting by and through the Board, may agree to pay reasonable operation and maintenance charges allocable to such state storage facilities. The Board may enter into contracts with political subdivisions of the state, with agencies of the state, and with the United States and its agencies for the development and operation of recreational facilities at reservoirs in which the state has acquired storage facilities. Income received by the Board from contracts for the development and operation of recreational facilities may be used by the Board for the same purposes as income from the sale of water may be used. The Legislature may make appropriations of available state funds for developing and operating

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recreational facilities at reservoirs in which the state has acquired storage facilities.

(12) The Attorney General of Texas shall approve as to legality (a) the resolution of the Board authorizing the acquisition and development of storage facilities as authorized in paragraph (1) of this Section 21-a; (b) all contracts between the Board and the United States or any of its agencies for the acquisition and development of storage facilities constructed or to be constructed by the Federal Government; (c) all contracts or agreements by the Board for the sale, lease or transfer of acquired storage facilities, in whole or in part; (d) all contracts by the Board for the sale of water impounded in acquired storage facilities; and (e) all contracts by the Board for the development and operation of recreational facilities.

(13) The Texas Water Development Board and the Texas Water Commission are hereby authorized to promulgate reasonable and necessary rules and regulations, separately or jointly, to implement and effectuate the provisions of this Act. Such rules and regulations and amendments thereto shall not be inconsistent with the provisions hereof and shall be approved by the Attorney General of Texas and filed with the Secretary of State. Added Acts 1963, 58th Leg., p. 69, ch. 49, § 2.

Effective 90 days after May 24, 1963, date of adjournment. Chief engineer, powers, duties and functions, see art. 7477, § 2.

Abolition of district; ordinance; vesting of properties and assets in city; liability for bonds; taxes; refunding bonds

Sec. 3. An Eligible District in addition to other methods that heretofore or may hereafter be prescribed, may be abolished in the manner herein provided. The governing body of the city in which such district was located as aforesaid shall be authorized, by majority vote, to adopt an ordinance abolishing such district if the governing body finds (a) that such district is no longer needed or (b) that the services furnished or functions performed by such district can be performed by the city (c) that it would be to the best interests of the citizens and property within the district and the city for the district to be abolished and (d) the governing body of the Eligible District shall have adopted a resolution evidencing consent of such body to the abolition of such district.

Upon the adoption of such an ordinance, an Eligible District shall be abolished and dissolved and all properties and assets of such district shall thereupon vest immediately in such city and such city shall thereby assume and become liable for all bonds and other obligations for which such district is liable. Such city shall thereafter perform all services and functions theretofore performed or rendered by said district. When any district bonds, warrants or other obligations payable from ad valorem taxes have been assumed by such city, the governing body of such city shall thereafter levy and cause to be collected upon all taxable property within such city, taxes sufficient to pay principal of and interest on, such bonds, warrants or obligations as they respectively become due and payable. Such city shall be authorized to issue refunding bonds in its own name to refund any bonds, warrants or other obligations, including unpaid earned interest thereon, so assumed by it. Such refunding bonds shall be issued in the manner provided in the Bond and Warrant Law of 1931, as heretofore or hereafter amended, provided that it shall not be necessary to give any notice of intention to issue such refunding bonds and no right of referendum thereon shall be available. As amended Acts 1963, 58th Leg., p. 489, ch. 176, § —.

Effective 90 days after May 24, 1963, date of adjournment.

VII. PARTICULAR WATER SUPPLY AND CONTROL DISTRICTS**CHAPTER TWELVE—CREATION, POWERS AND OBLIGATIONS****Art.****8280—120a.** Harris County Flood Control
District; building setback
lines along waterways
[New].**Art. 8280—107. Lower Colorado River Authority**

Sec. 10. The District shall have the power and is hereby authorized to issue bonds from time to time as authorized by this Act, provided that the aggregate principal amount of such bonds outstanding at any one time shall not exceed One Hundred Twenty Million Dollars (\$120,000,000). Provided, however, that in the event that any outstanding bonds shall be paid at maturity, other than through the application of the proceeds of other bonds or through the issuance of other bonds in exchange therefor; or shall be retired prior to the stated maturity thereof by operation of any sinking fund provided for the bonds so retired and in the proceedings authorizing the same, or from the proceeds of the sale of property, the aggregate principal amounts of bonds herein authorized to be outstanding at any one time shall be reduced by the principal amount of the bonds so paid or retired. Any additional amount of bonds must be authorized by an Act of the Legislature. Such bonds (1) shall be sold for cash at public sale to the highest and best bidder, as determined by the Board of Directors with the advice and approval of the Attorney General of Texas, provided, however, that the interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, shall not exceed five per centum (5%) per annum, or (2) may be issued in exchange for like principal amounts of other obligations of the District, matured or unmatured, or (3) may be sold to the United States of America, or to any agency or corporation created or designated by the United States of America, in exchange for cash equal in amount to the principal amount of the bonds so sold, provided, however, that the interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, shall not exceed five per centum (5%) per annum. The proceeds of the sale of such bonds shall be deposited in such bank or banks or trust company or trust companies, and shall be paid out pursuant to such terms and conditions, not in conflict with the provisions of this Act, as may be agreed upon between the District and the purchasers of such bonds. The proceeds of such bonds and any net operating revenues, derived from the sale of electric power or water, which may be available after paying the interest on outstanding bonds and the principal amount of such bonds, and setting aside sufficient funds for working capital, including a reasonable sum for contingencies and setting aside funds for reserves to secure payment of principal of and interest on outstanding bonds, shall be used (1) to build and construct dams within the District, on the Colorado River and its tributaries for the impounding and storage of flood and surface water; (2) to purchase and install in the dams on the Colorado River hydroelectric generators and other related facilities for the generation of hydroelectric power; and (3) for the construction of such additional lines and the purchase and installation of such additional equipment as the Board of Directors of the

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District may deem necessary or expedient to enable the District to continue to meet the demand for electric power in the area now served by its transmission lines and distribution systems, provided that no steam generating capacity shall be installed by the District, except that the District may acquire, install, construct and operate a single steam generating plant having a total capacity of not more than 250,000 kilowatts, to be located within the boundaries of the District, and to be utilized for the sole purpose of serving the area served by the District's transmission lines and distribution systems on January 1, 1962; and (4) for the purpose of building levees or such other flood control structures between the City of Austin and the mouth of the Colorado River as may be deemed necessary and desirable by the Board of Directors and installing such facilities as may be necessary to supply water for irrigation and other useful purposes within the counties composing the Colorado River District; and (5) in aid of any soil conservation or soil reclamation projects within the District which the Board of Directors may deem to be in the public interest, provided, however, that any such soil conservation or soil reclamation project shall be approved by the Extension Department of the Agricultural and Mechanical College of Texas, providing that nothing herein shall be construed as establishing priorities as to the uses of water contrary to the present General Laws of this State or those hereinafter enacted with reference thereto. Any proceeds of bonds sold by the District to the extent not required by an outstanding trust indenture to be used to redeem outstanding bonds, and any net operating revenues not needed to carry out the projects set out in phrases (1), (2) and (3) of the preceding sentence shall be placed in a separate fund to be designated "The Irrigation, Conservation and Reclamation Fund of the District" and used only for carrying out the projects and purposes authorized in phrases (4) and (5) of the preceding sentence, unless and until otherwise directed by the Legislature of the State of Texas. Such dams as may be built on the tributaries of the Colorado River shall be used for the purpose of impounding and storing flood and surface waters to be used during emergencies created by subnormal rainfall in the drainage basin of the Colorado River watershed. All such bonds shall be authorized by resolution or resolutions of the Board of Directors concurred in by at least six (6) of the members thereof, and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates (not exceeding five per centum (5%) per annum) payable annually or semiannually, be in such denominations, be in such form either coupon or registered, carry such registration privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds or vice versa, and exchange of bonds of one denomination for bonds of other denominations, be executed in such manner and be payable at such place or places within or without the State of Texas, as such resolution or resolutions may provide. Any resolution or resolutions authorizing any bonds may contain provisions, which shall be part of the contract between the District and the holder thereof from time to time (a) reserving the right to redeem such bonds at such time or times, in such amounts and at such prices, not exceeding one hundred and five per centum (105%) of the principal amount thereof, plus accrued interest, as may be provided; (b) providing for the setting aside of sinking funds or reserve funds and the regulation and disposition thereof; (c) pledging to secure the payment of the principal of, and interest on such bonds and of the sinking fund or reserve fund payments agreed to be made in respect of such bonds, all or any part of the gross or net revenues thereafter received by the District in respect of the property, real, personal or mixed, to be acquired and/or constructed with such bonds or the

proceeds thereof, or all or any part of the gross or net revenues theretofore or thereafter received by the District from whatever source derived; (d) prescribing the purposes to which such bonds or any bonds thereafter to be applied; (e) agreeing to fix and collect rates and charges sufficient to produce revenues adequate to pay the items specified in subdivisions (a), (b), (c), and (d), of Section 8 hereof, and prescribing the use and disposition of all revenues; (f) prescribing limitations upon the issuance of additional bonds and upon the agreements which may be made with the purchasers and successive holders thereof; (g) with regard to the construction, extension, improvement, reconstruction, operation, maintenance, and repair of the properties of the District and carrying of insurance upon all or any part of said properties covering loss or damage or loss of use and occupancy resulting from specified risks; (h) fixing the procedure, if any, by which, if the District shall so desire, the terms of any contract with the holders of such bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; (i) for the execution and delivery by the District to a bank or trust company authorized by law to accept trusts, of indentures and agreements for the benefit of the holders of such bonds setting forth any or all of the agreements herein authorized to be made with or for the benefit of the holders of such bonds and such other provisions as may be customary in such indentures or agreements; and (j) such other provisions, not inconsistent with the provisions of this Act, as the Board may approve, provided that no agreement, contract or commitment shall ever be made which, under any contingency, could or would result in the Government of the United States or any of its agencies or bureaus claiming the right or privilege of controlling or managing the properties and facilities of the District or the control or disposition of the water of the Colorado River or its tributaries; provided nothing herein shall be construed as limiting or restricting the rights or powers as set out hereinbelow in the event of any default on the part of the District. Nothing herein provided is intended to prohibit compliance with existing Federal Regulations, provided compliance therewith is done upon the advice and approval of the Attorney General of the State of Texas.

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

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

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

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

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

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

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

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

(5) after such notice to the District as such resolution may provide, declare the principal of all of such bonds due and payable, and if all defaults shall have been made good, then with the written consent of the holders of twenty-five per centum (25%) in aggregate principal amount of such bonds at the time outstanding, annul such declaration and its consequences; provided, however, that the holders of more than a majority in principal amounts of the bonds authorized thereby and at the time outstanding, shall by instrument or instruments in writing, delivered to such trustee, have the right to direct and control any and all action taken or to be taken by such trustee under this paragraph. Any such resolution, indenture, or agreement may provide that in any such suit, action or proceeding, any such trustee, whether or not all of such bonds shall have been declared due and payable, and with or without possession of any thereof, shall be entitled as of right to the appointment of a receiver who may enter and take possession of all or any part of the properties of the District and operate and maintain the same and fix, collect and receive rates and charges sufficient to provide revenues adequate to pay the items set forth in subparagraphs (a), (b), (c), and (d), of Section 8 hereof and the costs and disbursements of such suit, action or proceeding, and to apply such revenues in conformity with the provisions of this Act and the resolution or resolutions authorizing such bonds. In any suit, action or proceeding by any such trustee, the reasonable fees, counsel fees and expenses of such trustee or the receiver or receivers, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the Court shall be a first charge upon any revenues pledged to secure the payment of such bonds. Subject to the provisions of the Constitution of the State of Texas, the Courts of the County of Travis shall have jurisdiction of any suit, action or proceeding by any such trustee on behalf of the bondholders and of all property involved therein. In addition to the powers hereinabove specifically provided for, each such trustee shall have and possess all powers necessary or appropriate for the exercise of any thereof, or incident to the general representation of the bondholders in the enforcement of their rights.

Before any bonds shall be sold by the District, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of the State of Texas may require shall be submitted to the Attorney General, and if he shall find that such bonds have been issued in accordance with law he shall approve such bonds and he shall execute a certificate to the effect which shall be filed in the office of the Comptroller of the State of Texas and be recorded in a record kept for that purpose. No bond shall be issued until the same shall have been registered by the Comptroller, who shall so register the same if the Attorney General shall have filed with the Comptroller his certificate approving the bonds and the proceedings for the issuance thereof as hereinabove provided.

All bonds approved by the Attorney General as aforesaid, and registered by the Comptroller as aforesaid and issued in accordance with the proceedings so approved shall be valid and binding obligations on the revenues of the District and shall be incontestable for any cause from and after the time of such registration.

Annually hereafter the State Auditor shall audit the books and accounts of the District in such manner as to enable him to report to the Legislature as to the manner and purpose of the expenditure of all funds of the District. Such audit shall cover the fiscal year from July the first to June the thirtieth, and a report thereof shall be made before the first day of January of each year, a copy of which shall be filed with the Governor of Texas, the Attorney General of Texas, the Lieutenant Governor of Texas and the Speaker of the House of Representatives. The State Auditor, after completing such report, shall prepare a detailed statement showing the actual cost of such audit and certifying such account to the Governor of the State of Texas for his approval, and when approved by the Governor, the State Auditor shall deliver an official copy thereof to the Manager of the District, and the District shall forthwith deposit such sum of money with the State Treasurer, which sum shall be placed in the General Fund of the State of Texas. Nothing herein contained shall prohibit an independent audit as required under any bond indenture.

It is hereby declared to be the policy of this State that the District shall so manage and use its facilities, the water impounded by its dams on the Colorado River or its tributaries and the net operating revenues which may be available, to accomplish as nearly as possible, such of the purposes included in Section 59a, Article XVI of the Constitution of the State of Texas as are enumerated in the provisions of this Act, and the District shall market such electric power (as in the opinion of the Board will not be immediately needed by the District) under such contracts and on such conditions as will best enable the District to pay its operating expenses, meet its outstanding financial obligations as they mature, supply the increasing demand for electric power in the area now dependent upon its transmission lines and distribution systems for electric service and assure, as nearly as possible, an adequate supply of water for irrigation and other useful purposes, when and as it may be needed in the various counties comprising the District. As amended Acts 1955, 54th Leg., p. 532, ch. 165; Acts 1959, 56th Leg., p. 708, ch. 327, § 1; Acts 1962, 57th Leg., 3rd C.S., p. 27, ch. 11, § 1.

Emergency. Effective Jan. 31, 1962.

Discharging or hunting with weapon on lands of Lower Colorado River Authority, see Vernon's Ann.P.C. art. 9781—8.

Standard fees of office for directors of river authorities, see art. 3946a.

Art. 8280—119. San Antonio River Authority

Standard fees of office for directors of river authorities, see art. 3946a.

Art. 8280—120a. Harris County Flood Control District; building setback lines along waterways

Section 1. Where the following defined words appear in this Bill they are used in the manner set out below:

- (1) "District" means Harris County Flood Control District.
- (2) "Waterway" shall include any river, creek, bayou, stream or other waterway, or any part thereof.
- (3) "Landowner" means the person owning land affected by a building setback line.
- (4) "Notice by certified mail" means notice addressed to the landowner at the last known address appearing in the records of the Assessor and Collector of Taxes in connection with the land in question, and deposited in the United States mail as certified mail.

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(5) The term "to erect any structure" includes erecting, reconstructing, or substantially repairing any building or structure, but "structure" shall not be deemed to include those necessary or practical for the purpose of preventing erosion of banks.

Sec. 2. For the purpose of promoting the public health, safety and general welfare and accomplishing the purposes of Section 59 of Article XVI of the Constitution of the State of Texas, as amended, the governing body of the District is hereby authorized and empowered to establish and maintain building setback lines along any waterway within the boundaries of the District.

Sec. 3. a. Establishment or alteration of building setback lines shall be done only after notice and hearing. Notice shall be given not less than fifteen (15) days prior to the time of hearing nor more than sixty (60) days prior thereto. It shall be made by publishing a clear statement of the nature of the hearing and the location of the setback lines worded in such a way as reasonably to apprise the landowner of what is sought to be done. The same shall be published in a daily newspaper published and having circulation in the District.

b. Each landowner affected shall be given actual notice by certified mail of such hearing.

c. Any hearing so set by the governing body of the District may be continued from time to time until all interested persons shall have had an opportunity to be heard.

d. The provisions of "b" and "c" hereof are directory and failure to comply with such provisions after a showing of good faith attempt to comply therewith shall not make the entire proceedings void if there is a showing of substantial compliance with the notice and hearing provisions of this Act.

Sec. 4. a. After the governing body of the District has completed such hearings and shall have found that the establishing of such building setback lines is for the public health, safety and general welfare of the people within the District, and for the accomplishment of the purposes of Section 59 of Article XVI of the Constitution of the State of Texas, as amended, said governing body shall pass its resolution adopting such building setback lines. Such resolution shall contain a description of the area included within such building setback lines by either field notes or by map or plat or by both, and a certified copy thereof shall be filed for record immediately with the County Clerk of Harris County.

b. Thereafter the governing body of the District may, upon public hearing with like notice thereof, amend, supplement, grant exceptions thereto, or alter the building setback lines so established as may be determined necessary under the same standards as provided in "a" above.

Sec. 5. Upon the filing of the aforesaid resolution containing the full description of the area within such building setback lines, all persons shall be charged with notice of the requirements of such resolution; and, after the establishment of such building setback lines, no structure shall be erected within said lines so established, subject to the provisions of Section 6 hereof.

Sec. 6. a. Any person desiring to erect any structure within said lines so established shall give written notice of such intention by certified mail, not less than ninety (90) days before he commences such erection. Failure to give such notice shall constitute a prima facie showing (in any eminent domain proceeding thereafter instituted by the District to acquire

the area within said building lines) that the person erecting the structure did so at his own risk with knowledge of the fact that the same interfered with setback provisions of the District and with the right of said District to remove such erection without recovery of the value of such erection done after the establishment of the setback line; provided actual notice had been given to the landowner as provided in Section "3b" hereof.

b. If eminent domain proceedings are not instituted within ninety (90) days after written notice of the intention to so erect any structure has been mailed by certified mail, the building lines as established shall not affect damages to be paid in eminent domain proceeding thereafter instituted to acquire said area within said building lines but such damages shall be determined and paid as though such building lines had not been established.

c. If any owner affected by setback lines be in doubt as to the location of said setback lines at the time he is about to erect any structure which he believes may be within the required setback area, he may petition the District to survey and mark upon the grounds the location of said setback lines by sending the said District a certified letter and, if said District shall fail to make such survey and so mark the setback line upon the ground or show the location of the same in a reasonable manner within ninety (90) days, such erection may be made in the same manner and with the same results as if no setback line had been established.

Sec. 7. It is the intention of this Act to give the governing body of the District the right to protect from encroachment those areas which need to be protected from encroachment for such immediate and future drainage and flood control right-of-way requirements within the District as it may be necessary, or in the public interest to protect or promote the public health, safety and general welfare. It is not the intention of this Act to give the governing body of the District the power to acquire property without due process of law and without proper compensation therefor. Acts 1963, 58th Leg., p. 318, ch. 118.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8280—131. Jackson County Flood Control District

Sec. 11a. In addition to all other vested powers, the District shall have and is hereby authorized to exercise all powers, rights, privileges, and functions which are now, or hereafter may be, conferred by General or Special Law upon Water Improvement Districts and Water Control and Improvement Districts created pursuant to Section 59 of Article XVI of the Constitution of Texas. Added Acts 1963, 58th Leg., p. 20, ch. 14, § 1.

Emergency. Effective March 8, 1963.

Art. 8280—138. Duval County Conservation and Reclamation District

Section 1. Under and pursuant to the provisions of Article 16, Section 59, of the Constitution of Texas, there is hereby created within the State of Texas, in addition to the districts into which the state has heretofore been divided, a conservation and reclamation district to be known as the Duval County Conservation and Reclamation District, hereinafter sometimes referred to as the "District," and consisting of that part of the State of Texas which is included within the boundaries of Duval County, exclusive of that part of Duval County comprising the Freer Water Control and Improvement District, of Duval County. As amended Acts 1963, 58th Leg., p. 1164, ch. 452, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

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Sec. 3. The management and control of the District is hereby vested in a board of directors which shall have all of the powers and authority conferred and imposed upon boards of directors of Water Control and Improvement Districts organized under the provisions of Chapter 25, Acts of the 39th Legislature passed in 1925, and amendments thereto, as incorporated in Title 128, Chapter 3A, of Vernon's Civil Statutes of the State of Texas and amendments thereto. The board of directors shall be composed of four (4) members who shall have the same qualifications as directors of Water Control and Improvement Districts. In the event and to the extent that any of the provisions of the General Laws referred to in this Section are in conflict with or inconsistent with any of the provisions of this Act relating to the powers, authority, and duties of the board of directors and its members, the provisions of this Act shall prevail. The Commissioners Court of Duval County is hereby authorized and empowered to appoint four (4) persons qualified under the law to serve as directors of the District until their successors shall have been duly elected and shall have qualified. The four (4) directors thus appointed shall serve for a term of two (2) years beginning June 1, 1963. The first election of directors shall be held on the first Tuesday in May, 1965, and said election shall be ordered and conducted in the same manner as the election for directors of Water Control and Improvement Districts. The directors so elected shall qualify and begin their term of office on June 1, 1965, or as soon thereafter as practical. The persons elected directors at said election shall draw lots so that two (2) directors shall serve for a term of one (1) year and two (2) directors shall serve for a term of two (2) years. Thereafter an election shall be held on the first Tuesday in May of each year and the directors elected after the first election shall each serve for a term of two (2) years. As amended Acts 1963, 58th Leg., p. 1164, ch. 452, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 9. The District shall have authority to acquire property, real and personal, which is not already devoted to a public use within the District which within the discretion of the board of directors is needed in accomplishing the objectives of the District, and to facilitate the acquisition of property it shall have all of the powers of eminent domain available to water control and improvement districts under the General Laws.

In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. As amended Acts 1963, 58th Leg., p. 1164, ch. 452, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 14. The Commissioners Court of Duval County is hereby authorized and empowered to contribute out of any available county funds to the organization and preliminary expenses of the District, provided, however, that such contribution shall be repaid to the County out of the proceeds derived from the sale of the first bonds issued and sold by the District. As amended Acts 1963, 58th Leg., p. 1164, ch. 452, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8280—146. Brookshire Municipal Water District

Sec. 1a. That land may be added and annexed to said District in the manner provided by Chapter 3A of Title 128 of the Revised Civil Statutes of Texas, 1925, together with all amendments and additions thereto, heretofore or hereafter enacted. Added Acts 1963, 58th Leg., p. 501, ch. 186, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

VII. PARTICULAR WATER SUPPLY AND CONTROL DISTRICTS

CHAPTER TWELVE—CREATION, POWERS AND OBLIGATIONS

Art.	Art.
8280—270. Alice Water Authority [New].	8280—286. Bacliff Municipal Utility District of Galveston County [New].
8280—271. Memorial Villages Water Authority [New].	8280—287. Bayview Municipal Utility District of Galveston County [New].
8280—272. McLennan County Water Control and Improvement District—Bosqueville Hills [New].	8280—288. Harris County Water Control and Improvement District—Fondren Road [New].
8280—273. Pettus Municipal Utility District [New].	8280—289. Butterfield Water Control and Improvement District [New].
8280—274. Repealed.	8280—290. McMullen County Water Control and Improvement District No. 2 [New].
8280—275. Repealed.	8280—291. River Plantation Municipal Utility District of Montgomery County [New].
8280—276. Dayton Drainage District [New].	8280—292. Orange County Drainage District of Orange County [New].
8280—277. Henderson County Municipal Water Authority [New].	8280—293. Lake Dallas Municipal Utility Authority [New].
8280—278. Port Mansfield Public Utility District [New].	8280—294. Pearland Municipal Utility District of Brazoria County [New].
8280—279. Lakeside Water Supply District [New].	8280—295. Oak Manor Municipal Utility District of Brazoria County [New].
8280—280. Clear Lake City Water Authority [New].	8280—296. Aransas County Conservation and Reclamation District [New].
8280—281. Dalby Springs Conservation District [New].	
8280—282. City of Hillsboro Water and Sewer Authority [New].	
8280—283. Sagemont Municipal Utility District of Harris County [New].	
8280—284. Galveston West Bay Municipal Utility District of Galveston County [New].	
8280—285. Friendswood Drainage District of Galveston County [New].	

Art. 8280—162. West Central Texas Municipal Water District

Sec. 23. (a) The Board of Directors of the District shall have the power to provide for the study, correcting and control of both artificial and natural pollution of all water in, and to flow into, any reservoir owned by the District, and shall have the power to adopt and promulgate all reasonable regulations to secure, maintain and preserve the sanitary condition of all water in and to flow into any reservoir owned by the District, to prevent waste of water or the unauthorized use thereof, and to protect its reservoir from the inflow of salt and other chemicals, to regulate residence, hunting, fishing, boating, and camping, and all recreational and business privileges, along or around any such reservoir or any stream contributing water to its reservoir, or any body of land, or easement owned by the District.

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(b) Such District may prescribe reasonable penalties for the breach of any regulation of the District, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200), or imprisonment for not more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction, provided however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the District may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the county in which such reservoir is situated, or in any county in which it is partly situated. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice advice that the full text of the regulations sought to be enforced is on file in the principal office of the District, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinance of a city of the State.

(c) It further is expressly provided that the District shall have the power to employ and constitute its own peace officers, and any such officer or any other duly constituted peace officer shall have the power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the District, and against the laws of the State of Texas, when any such offense or threatened offense occurs upon any land, water, or easement owned or controlled by the District or, to make such arrest at any place, in case of an offense involving injury or detriment to any property owned or controlled by such District.

(d) Except as otherwise provided herein, the District is hereby vested with all of the rights, power and privileges conferred by the General Laws of this State now in effect, or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59, Article 16 of the Constitution. As amended Acts 1963, 58th Leg., p. 162, ch. 100, § 1.

Emergency. Effective May 6, 1963.

Art. 8280—176. Runnels County Water Authority

Section 1. The Runnels County Water Improvement District, consisting of all of the County of Runnels, shall hereafter be known as the Runnels County Water Authority.

All legislative acts and appropriations heretofore passed either in or by reference to the Runnels County Water Improvement District are in all things ratified and confirmed in behalf of the Runnels County Water Authority. Whenever reference is made to the Runnels County Water Improvement District, such reference shall mean the Runnels County Water Authority.

Such Authority shall be and is hereby declared to be a governmental agency and body politic and corporate with the power of governing and with the authority to exercise the rights and privileges and functions hereinafter specified, and the creation of such Authority is hereby determined to be essential to the accomplishment of the purposes of Section 59 of Article 16 of the Constitution of the State of Texas (to the extent hereinafter authorized) for the control, storing, preservation, and distribution of the waters of the Colorado River for domestic, municipal, flood control, irrigation, power, and other useful purposes: the reclamation of soil and soil fertility, and hydroelectric power of the State of Texas.

Nothing in this Act or any other Act or law contained, however, shall be construed as authorizing the Authority to levy or collect taxes or assessments or to create any indebtedness payable out of taxes or assessments, or in any other way pledge the credit of the State. As amended Acts 1962, 57th Leg., 3rd C.S., p. 202, ch. 77, § 1.

Effective 90 days after Feb. 1, 1962, date of adjournment.

Art. 8280—221. Hay County Wimberley Water Supply District

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the Forty-seventh Legislature of Texas, Regular Session, 1941, as amended (Article 7930-4, Vernon's Texas Civil Statutes), including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the Fifty-second Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes). As amended Acts 1963, 58th Leg., p. 1275, ch. 489, § 1.

Emergency. Effective June 10, 1963.

Art. 8280—243. Repealed. Acts 1963, 58th Leg., p. 11, ch. 9, § 1. Eff. March 7, 1963

Prior to repeal, art. 8280—243 was amended by Acts 1961, 57th Leg., 1st C.S., p. 193, ch. 59, § 1.

Art. 8280—248. Logan Slough Creek Improvement District

Sec. 19. The district shall have all and singular the powers, duties and functions, and shall observe procedures, insofar as the same may be applicable and practicable, to collect taxes as is provided for by Chapter 25 of the General Laws of the Thirty-ninth Legislature, Regular Session, and the several amendments thereof, particularly what is now Article 7880-77a, Vernon's Annotated Civil Statutes, including but not limited to

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the following: To provide for a tax assessor and collector; to determine property subject to taxation; to provide for rendition of taxable property; to provide for a taxpayer's oath; to provide for verification by tax assessor and collector of property rendered; to provide for penalties for making false oaths; to provide for a date for rendition of property; to provide for a board of equalization; to provide when the board of equalization shall convene; to provide for the board of equalization to examine assessment lists; to provide who may file complaints; to provide for a notice of hearing and hearing for protests; to provide for duplicate tax rolls; to provide for books of account and an audit; to provide when taxes are due and payable; to provide for delinquent taxes, collection, and sale of property; to provide that taxes are not barred by any law of limitations and no law providing for a period of limitation as to debts or actions shall apply to such taxes; to provide for penalties and interest; to provide for publication of delinquent tax rolls; to provide for attorneys to bring suit for delinquent taxes; to provide for redemption of delinquent property; and to provide for anything necessary for the accomplishment of the foregoing and to carry out the purposes of this Act.

All taxes to pay the cost of the organization of a district and pay off bonds for preliminary surveys and investigation; or, to provide funds for conducting such surveys, if no construction bonds are desired to be issued, shall be levied and collected on the ad valorem basis. After the directors of the district shall have adopted plans for the construction of a plant and improvements to carry out the purposes of the district, and after an election is held giving authority to the district to issue construction bonds, and to levy a tax in payment therefor, as provided in Sections 78 to 91, inclusive, of said Chapter 25, as amended by Sections 11 to 16, inclusive, of Chapter 107 of the Acts of the Fortieth Legislature, First Called Session, 1927, they shall hold a public hearing upon the following propositions, namely:

1st: Shall taxes to pay off construction bonds, and for maintenance, operation and administrative costs of the district be assessed, levied and collected upon the ad valorem basis?

2nd: Shall taxes for the stated purposes be assessed, levied and collected on the basis of the assessment of specific benefits, as is provided for in Section 132 of said Chapter 25?

3rd: Shall taxes for the stated purposes be assessed, levied and collected upon the basis of assessment of benefits at an equal sum per acre of land, as is provided in Section 133 of said Chapter 25?

4th: And, this district being organized under Section 59 of Article 16 of the Constitution, then there may be heard the question, shall taxes for the stated purposes be assessed, levied and collected on the ad valorem basis as to some part of the total tax required, and upon the basis of the assessment of benefits as to some part of the total tax required, or as to some defined part of, or property within, the district, as is provided for by Section 130 and Section 132 of said Chapter 25, as amended by this Act? (Article 7880-77a, *Vernon's Annotated Texas Statutes*.) Notice of the time and place of hearing and of the exact proposition to be determined shall be published in one or more newspapers having general circulation in the district once a week for two (2) consecutive weeks. The first of said publications shall be not less than ten (10) days prior to the time of hearing set out in said notice. At this hearing any person who is a taxpayer within the district may appear and offer testimony to show what plan of taxation will most conduce to the equitable distribution of the tax to be imposed by the district. Said hearing may be adjourned from day to day

until all qualified persons who present themselves have been heard. The Board shall adopt such plan of taxation as will, under the evidence and the district's plans, in their judgment, most conduce to the equitable distribution of the district's tax:

If the plan adopted by the directors falls under the provisions of said Section 130, then the order to be entered by the directors shall specify what proportion of the tax falls under each designated classification. The order of the Board adopting a plan of taxation shall be final, and cannot be reviewed or questioned in any court, save on the ground of fraud or palpable and arbitrary abuse of discretion.

If after having adopted a tax plan the directors find that the best interests of the district, and the necessity to keep the district's tax adequate and equitably distributed, require a change in the tax plan they may give notice, hold a hearing and decide as in this Section provided. Nothing in this Section provided shall be held to alter the provisions of said Chapter 25 as to districts operating under contract with the United States of America, nor to alter or impair the provisions of Section 130 of said Chapter 25, relating to taxes levied to provide local improvements in a defined area in a district, which improvements are peculiar to such defined area and do not affect the district as a whole.

(a) It is specifically provided that nothing contained in this Section or in Section 130 of this Act shall alter, or impair the right of a district to make, establish and collect maintenance and operation charges for the service they render, and to levy and collect taxes to secure funds to maintain, repair and operate all works and facilities, and to give and maintain proper service for the purposes of its organization, as is provided for in Sections 106, 107, 108, 109, 110 and 111 of said Chapter 25.

(b) All taxes, or charges, or assessments, imposed by a district, as provided for by Sections 106, 107, 108 and 109 of said Chapter 25, for the maintenance and operation of works, facilities and services of such district, shall be and constitute a lien against the lands as to which such taxes, or charges, or assessment, have been established; and, no law applying to a limitation against actions for debt shall apply thereto; same shall not be barred by limitation. As amended Acts 1963, 58th Leg., p. 592, ch. 215, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8280—251. Rotan Municipal Water Authority

Sec. 2-A. In addition to the territory described in the Act hereby amended, Rotan Municipal Water Authority shall also contain the following described territory:

BEGINNING at a point in the present boundary line of the Rotan Municipal Water Authority. Said point of beginning being in the east line of Section 49 and the west line of Section 46 and being equal distance from the north and south lines of said Sections 49 and 46, all sections referred to herein being located in Block 2, H&TC RR Co., Fisher County, Texas;

THENCE, in a southwesterly direction along the mid-section line equal distance from the north and south lines and crossing Sections 49, 50, 53, 54, 57 and 58 to the mid-point of the west line of Section 58;

THENCE, in a northwesterly direction along the common line between Sections 58 and 61 to the mid-point of the east line of Section 61, being equal distance from the northeast corner and the southeast corner of said Section 61;

THENCE, in a southwesterly direction along the mid-section line equal distance from the north and south line and crossing Section 61 and con-

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tinuing southwesterly to a point in the center of Section 62. Said point being equal distance from the north, south, east and west lines of said Section 62;

THENCE, in a southeasterly direction along the mid-section line of Section 62 equal distance from the east and west lines of said Section 62 to a point in the south line of said Section 62 and the north line of Section 63. Said point being equal distance from the southeast corner and the southwest corner of said Section 62;

THENCE, in a southwesterly direction along the south line of Section 62 to the southwest corner of said Section 62, the northwest corner of Section 63, the southeast corner of Section 65 and the northeast corner of Section 64;

THENCE, in a southeasterly direction along the east line of said Section 64 and the west line of said Section 63 to a point in the present boundary line of the Rotan Municipal Water Authority. Said point being equal distance from the northeast corner and the southeast corner of said Section 64;

THENCE, in a southwesterly direction along the mid-section line equal distance from the north and south lines and crossing Sections 64 and 67 to a point in the west line of said Section 67. Said point being equal distance between the southwest and northwest corners of said Section 67;

THENCE, in a northwesterly direction along the west line of Section 67 passing the northwest corner of said Section 67 and continuing in a northwesterly direction along the west line of Section 66 to a point in the west line of said Section 66 equal distance from the northwest and southwest corners of said Section 66;

THENCE, in a northeasterly direction along the mid-section line of Section 66 to a point in the center of said Section 66 equal distance from the east and west lines and the north and south lines;

THENCE, in a northwesterly direction along the mid-section line of Section 66 to a point in the north line of said Section 66. Said point being equal distance from the northwest and northeast corners of said Section 66;

THENCE, in a northeasterly direction along the north line of Section 66 to the northeast corner of said Section 66 and the southwest corner of Section 102;

THENCE, in a northwesterly direction along the west line of Section 102 to a point in the west line of said Section 102 equal distance from the northwest and southwest corners of said Section 102;

THENCE, in a northeasterly direction along the mid-section line equal distance from the north and south lines and crossing Sections 102, 103 and 104 to the mid-point of the east line of said Section 104;

THENCE, in a southeasterly direction along the common line between Sections 104 and 105 to the mid-point of the west line of said Section 105, being equal distance from the northwest corner and the southwest corner of said Section 105;

THENCE, in a northeasterly direction along the mid-section line equal distance from the north and south lines and crossing Sections 105, 106, 107, 108, 109 and 110 to a point in the east line of said Section 110 and the present boundary line of the Rotan Municipal Water Authority. Said point being equal distance from the northeast and southeast corners of said Section 110; and

THENCE, in a southeasterly direction along the present boundary line of the Rotan Municipal Water Authority and the east line of Section 110 passing the southeast corner of said Section 110 and the northeast corner of Section 49 and continuing along the present boundary line of the Rotan

Municipal Water Authority and the east line of said Section 49 to the point and place of beginning.

It is hereby found that all of the land thus added to the Authority will be benefited by the improvements to be acquired and constructed by the Authority. Added Acts 1963, 58th Leg., p. 862, ch. 331, § 1.

Emergency. Effective May 27, 1963.

Sec. 2-B. After the effective date of this Act the Board of Directors of the Authority shall call an election to be held within the territory added by this amendment on the proposition of whether such territory shall assume its part of the outstanding bonds of the Authority and whether the Board of Directors of the Authority shall levy an ad valorem tax on all taxable property in the Authority, including the territory annexed by this amendment, for the payment of said outstanding bonds and the interest thereon. Notice of such election shall be given in the manner provided for bond elections in the Act hereby amended, and the returns from the election shall be canvassed and the result declared by the Board of Directors of the Authority. Only qualified voters who reside in the territory attached by this amendment and who own taxable property therein shall be qualified to vote on such proposition. If such proposition receives a favorable majority vote, the tax shall be levied and collected for the year in which the election is held and each year thereafter as long as required for the payment of such bonds and interest. Added Acts 1963, 58th Leg., p. 862, ch. 331, § 1.

Emergency. Effective May 27, 1963.

Sec. 2-C. If the proposition submitted at said election does not receive a favorable majority vote, the Board of Directors of the Authority shall adopt a resolution detaching said territory from the Authority. Added Acts 1963, 58th Leg., p. 862, ch. 331, § 1.

Emergency. Effective May 27, 1963.

Art. 8280—265. Kimble County River Authority

Sec. 18a. When the directors of the District shall determine that the benefits from construction of a proposed improvement will be realized only within the corporate limits of the City of Junction, the District may call an election limited to that City. Such an election may authorize taxation only within the City of Junction, and the issuance of bonds thereon. A limited election of this nature shall not constitute a formal exclusion of the remainder of Kimble County from the District. Added Acts 1963, 58th Leg., p. 149, ch. 90, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Sec. 24. The District may acquire the authority to levy an ad valorem tax of not to exceed fifty cents (50¢) per One Hundred Dollar valuation, such tax to be levied throughout the entire District, or within only the corporate limits of the City of Junction, if (1) a petition, signed by five per cent (5%) of the resident qualified property taxpaying voters in the County, or by five per cent (5%) of the resident qualified property taxpaying voters in the City of Junction if the election is to be a limited one of the nature described in Section 18a, is presented to the Board of Directors of the District asking that an election be called to determine whether a specified rate of tax (or not to exceed a specified rate of tax) may be levied by the District, and (2) the Board of Directors then calls an election to submit such question to the resident qualified property taxpaying voters of the County or City, and (3) a majority of the qualified property taxpaying voters participating in the election vote in favor of such tax.

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The election shall be called, conducted, held, and the returns made thereof and all notices shall be given in the same mode and manner as required by General Law for bond elections in water control and improvement districts.

If the election carries, the Board shall have the authority to levy, in the County or the City as the case may be, the amount or not to exceed the amount of tax specified in the petition and order calling the election (so long as the amount of such tax does not exceed fifty cents (50¢) per One Hundred Dollar valuation). The tax so authorized to be levied may be used to accomplish the purpose of the creation of the District or may be pledged without the necessity of another election to the payment of tax bonds for such purpose in accordance with the General Law governing water control and improvement districts, and the bonds must mature within forty (40) years of their date. Other limitations of this Act shall not apply to the amount of bonds to be issued by this District so long as such obligations and interest thereon may be paid within the limits of the tax authorized, and such bonds shall be issued in conformity with the law governing water control and improvement districts except as modified by the provisions of this Act.

If taxes are levied, the values of the property in said District shall be the same values as are shown on the county tax rolls for rural property and shall be the same as are shown on the city tax rolls for property within corporate limits, and the provisions of the General Law with reference to water control and improvement districts shall govern the appointment, qualification, and duties of the District's tax assessor. As amended Acts 1963, 58th Leg., p. 149, ch. 90, § 2.

Effective 90 days after May 24, 1963, date of adjournment. Standard fees of office for directors of river authorities, see art. 3946a.

Art. 8280—270. Alice Water Authority

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a conservation and reclamation district to be known as "Alice Water Authority," (hereinafter called "Authority") which shall be a governmental agency, an agency of the State of Texas, and a body politic and corporate.

Sec. 2. The Authority shall be comprised of all of the territory which was contained in the City of Alice, Texas, on December 1, 1961.

It is hereby found and determined that all of the territory and taxable property contained within the area above described will be benefited by the works and improvements of the Authority.

Sec. 3. (a) All powers of the Authority shall be exercised by a Board of Directors (hereinafter called the "Board"). Each member shall serve for a term of two (2) years except for the first directors appointed initially pursuant to this Act. Immediately following the effective date of this through December 31 next following their appointment and three (3) Act the governing body of the City of Alice (hereinafter called the "City") shall appoint five (5) members, two (2) of whom shall serve for a term shall serve through the 31st day of December of the year next following their appointment.

(b) During December following the effective date of this Act and in December of each year thereafter the governing body of the City shall appoint directors to succeed directors whose terms are about to expire. Any vacancy shall be filled for an unexpired term by the governing body of such City.

(c) Each director shall serve for his term of office as herein provided and thereafter until his successor shall be appointed and qualified. No person shall be appointed a director unless he resides in and owns taxable property in the Authority. No member of a governing body of the City and no employee of the City shall be appointed as director. Such directors shall subscribe the Constitutional oath of office, and each shall give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000.00), the cost of which shall be paid by the Authority. A majority shall constitute a quorum. If any director moves from the Authority or otherwise ceases to be a director, the governing body of the City shall appoint a director to succeed him, for the unexpired term.

(d) Each director shall receive a fee of not to exceed Twenty Dollars (\$20.00) for attending each meeting of the Board, provided that no more than Forty Dollars (\$40.00) shall be paid to any director for meetings held in any one (1) calendar month. Each director shall also be entitled to receive not to exceed Twenty Dollars (\$20.00) per day devoted to the business of the Authority and to reimbursement for actual expenses incurred in attending to Authority's business provided that such service and expense are expressly approved by the Board.

Sec. 4. The Board shall elect from its number a president and a vice-president of the Authority and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the Authority and the presiding officer of the Board and shall have the same right to vote as any other director. The vice-president shall perform all duties and exercise all powers imposed or conferred by this Act upon the president when the president is absent or fails or declines to act, except the exercise of the president's right to vote. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the Board. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the Authority. The Board shall appoint necessary engineers, attorneys and other employees and employ a manager. The power to employ and discharge employees may be conferred upon the manager. The Board shall adopt a seal for the Authority.

Sec. 5. Territory annexed to the City may be annexed to the Authority in the following manner:

(1) At any time after final passage of an ordinance annexing territory to the City, the Board may issue a notice of hearing on the question of annexing to the Authority said territory or any part thereof. Such notice shall be sufficient if it states the date and place of the hearing, a description of the area proposed to be annexed, but in lieu of such description the notice may make reference to the annexation ordinance of the City.

(2) The notice shall be published one (1) time in a newspaper having general circulation in the City, such publication to be at least ten (10) days before the date set for the hearing.

(3) If, pursuant to such hearing, the Board finds that the territory proposed to be annexed will be benefited by the water supply afforded or to be afforded by the Authority, the Board shall adopt a resolution annexing said territory to the Authority.

(4) After territory is added to the Authority, the Board may call an election over the entire Authority as enlarged for the purpose of determining whether the entire Authority as enlarged shall assume the tax-supported bonds then outstanding and those theretofore voted, if any,

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but not yet sold and whether an ad valorem tax shall be levied upon all taxable property within the Authority as enlarged for the payment thereof. Such election shall be called and held in the same manner as elections for the issuance of bonds wholly or partially supported by taxation as provided in Section 15 of this Act.

Sec. 6. The Authority is authorized to acquire untreated water from the City of Corpus Christi, Texas (hereinafter referred to as "Corpus Christi"), to be supplied from Lake Corpus Christi, subject to a contract or contracts to be executed by and between Authority and Corpus Christi, approved by Lower Nueces Water Supply District (hereinafter called "Nueces"), or under such contract or contracts assigned to Authority. The water thus to be procured, which must be that which is "surplus" to the requirements of Corpus Christi, as "surplus" is defined in a contract between Corpus Christi and Nueces, may be used by Authority as a source of water supply for the City; provided the right of City to execute a contract prescribing the obligations of City and Authority is duly voted in the City in compliance with Article 1109 (e) Vernon's Texas Statutes. Authority may contract with Corpus Christi or Nueces, or both, in reference to Authority's duty or option to participate in the cost of any future enlargement of Corpus Christi Reservoir and for a commensurate share of increased water yield.

Sec. 7. Authority is authorized to construct or cause to be constructed a diversion works, pumps, pumping stations, pipelines, intermediate and terminal storage reservoirs, a water treatment plant and all other related facilities which will implement the duty of Authority to deliver treated or untreated, or both treated and untreated water, to the City. Such diversion works may be so constructed as to permit the taking of water from Corpus Christi Lake through intake or otherwise or from Nueces River below the Lake, as may be determined by Authority. The specifications contained in this Section of certain elements of the Authority's proposed water supply, treatment, and transportation system, shall not preclude Authority from constructing all facilities necessary or convenient in enabling Authority to deliver treated or untreated water to City.

Sec. 8. To the extent authorized or required by law, the Authority is empowered to obtain an appropriation permit or permits from the Board of Water Engineers, as provided in Chapter 1 of Title 128, Revised Civil Statutes of 1925, as amended, or it is authorized to participate with Corpus Christi or Nueces in obtaining any such required permit.

Sec. 9. The Authority is authorized to acquire all works, machinery, plants and other facilities and to acquire land, rights-of-way and easements for the purpose of exercising its rights and performing its duties under this Act. Subject to the application of the terms of any deed of trust or indenture executed by the Authority, it may sell, trade, or otherwise dispose of any real or personal property deemed by the Board not to be needed for Authority purposes.

Sec. 10. (a) The Authority shall have the right to acquire by condemnation the fee simple title to, easements or rights-of-way in or upon, or other interests in land and other property and easements within and without the boundaries of the Authority within Jim Wells County, necessary to the exercise of the powers, rights, privileges and functions conferred upon the Authority by this Act in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain, or at the option of the Authority in the manner provided by Statutes relative to condemnation by Districts organized under General Law pursuant to Section 59, Article 16 of the Constitution of the State of Texas. This Author-

ity is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52. The amount of and character of interest in land, other property and easements thus to be acquired shall be determined by the Board of Directors. The Authority shall have the same rights and powers within such counties as are conferred upon water control and improvement districts by Section 49 of Chapter 25, Acts of the 39th Legislature, with reference to making surveys and attending to other business of the Authority.

(b) Solely for the limited purposes enumerated herein and for no other purpose, the Authority shall have the right to exercise the power of eminent domain in Nueces County similar to the power granted in Jim Wells County by Subsection (a) hereof, but such power shall be strictly limited and confined to those acquisitions necessary for the following purposes, to-wit:

(1) To acquire easements or rights-of-way necessary to build a pipeline from the City of Alice to a point of contact on the Nueces River from which water will be obtained from Corpus Christi pursuant to contract;

(2) To acquire fee simple title to such land as shall be reasonably necessary for the erection of a pumping station or stations near or adjacent to the pipeline to be built pursuant to Subsection (b) (1) hereof.

(c) In the event that the Authority, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the Authority. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 11. Any construction contract requiring an expenditure of more than Two Thousand Dollars (\$2,000.00) shall be made after publication of a notice to bidders once each week for two (2) weeks for sealed bids before awarding the contract. Such bids shall be opened publicly. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper of general circulation in the Authority and designated or approved by the Board.

Sec. 12. (a) For the purpose of carrying out any power or authority conferred by this Act, the Authority is empowered to issue its negotiable bonds to be payable from revenues or taxes or both revenues and taxes of the Authority as are pledged by resolution of the Board. Pending the issuance of definitive bonds the Board may authorize the delivery of negotiable interim bonds or notes, eligible for exchange or substitution by use of the definitive bonds.

(b) Such bonds shall be authorized by resolution of the Board and shall be issued in the name of the Authority, signed by the president or vice-president, attested by the secretary and shall bear the seal of the Authority. It is provided, however, that the signatures of the president or of the secretary or of both may be printed or lithographed on the bonds

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if authorized by the Board, and the seal of the Authority may be impressed on the bonds or may be printed or lithographed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the Board to be the most advantageous reasonably obtainable, provided that no sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one (1) series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the Authority (other than from taxation), or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues or income specified by resolution of the Board or in the trust indenture or other instrument securing the bonds. Any such pledge may reserve the right under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues and income of the Authority thus pledged after deduction of the amount necessary to pay the cost of performing any such contract and of maintaining and operating the Authority and its properties.

(e) After the authorizing election, required under Section 15 shall have been held and carried, Authority is also empowered to issue bonds payable from ad valorem taxes to be levied on all taxable property therein, or to issue bonds secured by and payable from both such taxes and the revenues of the Authority. Where bonds are issued payable wholly or partially from ad valorem taxes, it shall be the duty of the Board to levy a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, but the rate of the tax for any year may be fixed after giving consideration to the money received from the other pledged revenues which may be available for payment of principal and interest to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(f) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board to fix, and from time to time to revise the rates of compensation for water sold and services rendered by the Authority which will be sufficient to pay the expense of operating and maintaining the facilities of the Authority and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as required in the resolution authorizing the bonds or in the trust indenture or other instrument securing the bonds. Where bonds payable partially from revenues are issued it shall be the duty of the Board to fix, and from time to time revise, the rate of compensation for water sold and services rendered by the Authority which will be sufficient to assure compliance with the resolution authorizing the bonds and with any trust indenture or other instrument securing the bonds.

(g) From the proceeds from the sale of the bonds, the Authority may set aside amounts for the payments into the interest and sinking fund and the reserve fund, and such provisions may be made in the resolution authorizing the bonds or any trust indenture or other instruments secur-

ing the bonds. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which this Authority is created, including expenses of issuing and selling the bonds. The proceeds from the sale of the bonds may be invested in direct obligations of, or unconditionally guaranteed by, the United States Government maturing in the manner that might be authorized by the resolution authorizing the bonds or the trust indenture or other instruments securing the bonds.

(h) In the event of a default or a threatened default in the payment of principal or of interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of the holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the Authority except taxes, employ and discharge agents and employees of the Authority, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the Authority without consent or hindrance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of water or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. The resolution authorizing the issuance of the bonds or the trust indenture or other instrument securing them may limit or qualify the rights of the holders of less than all of the outstanding bonds payable from the same source to institute or prosecute any litigation affecting the Authority's property or income.

Sec. 13. Authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and combine the revenues pledged to the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues and mortgage liens. The provisions of this law with reference to the issuance by the Authority of other bonds, their security, and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 14. Any bonds (including refunding bonds) authorized by the law, not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the Trustee may be a bank, having trust powers, situated either within or outside of the State of Texas. Such bonds, within the discretion of the Board, may be additionally secured by a deed of trust or mortgage lien upon physical properties of the Authority and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for the payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties may contain any provisions prescribed by the Board for the

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security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend Authority money or sell Authority property upon approval of a registered professional engineer selected as provided therein, and may make provision for the investment of funds of the Authority. Any purchaser under a sale under the deed of trust lien, where one is given, shall be the absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate the same.

Sec. 15. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by an election at which only the qualified voters residing in the Authority who own taxable property therein and who have duly rendered the same for taxation shall be allowed to vote, and unless a majority of the votes cast thereat is in favor of the issuance of the bonds. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such election may be called by the Board without a petition. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the form of the ballot, and the presiding judge for each voting place. The presiding judge serving at each voting place may appoint one (1) assistant judge and two (2) clerks to assist in holding such election. Notice of the election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper of general circulation in the Authority on the same day of each of two (2) consecutive weeks. The first publication shall be at least fourteen (14) days prior to the date set for the election. If no newspaper is published in the Authority, notice shall be given by posting a copy of the resolution in three (3) public places within the Authority.

(c) The returns of the election shall be made to and canvassed by the Board.

(d) The General Laws relating to elections shall be applicable to elections held under this Section of this law except as otherwise provided in this law.

Sec. 16. After any bonds (including refunding bonds) are authorized by the Authority, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the Authority and City or other governmental agency, authority or district, a copy of such contract and the proceedings of the City or other governmental agency, authority or district authorizing such contract may also be submitted to the Attorney General. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and Laws of the State of Texas he shall approve the bonds and such contracts and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter the bonds and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 17. (a) The Board shall designate one (1) or more banks within the Authority to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust agreement, and except that funds shall be remitted to the bank or banks of payment for the payment of principal of

and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the Federal Deposit Insurance Corporation they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the Board shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting the banks in the Authority to submit applications to be designated depositories. The terms of service for depositories shall be prescribed by the Board. Such notice shall be in writing and mailed to each bank within the Authority at least ten (10) days prior to the date fixed for receiving bids.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the Authority, and which the Board finds have proper management and are in condition to warrant handling of Authority funds. Membership on the Board of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no applications are received by the time stated in the notice, the Board may designate some bank or banks within or without Authority upon such terms and conditions as it may find advantageous to the Authority.

Sec. 18. Authority may acquire by assignment any rights belonging to City by virtue of any contract between City and Corpus Christi in reference to such water supply, and if such assignment is accepted Authority shall assume City's obligations under such contract.

Sec. 19. All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 20. The accomplishment of the purposes stated in this Act, including the use, for municipal and industrial purposes, of stored water which otherwise would be wasted into the Gulf, is for the benefit of the people of this state and for the improvement of their properties and industries, and the Authority, in carrying out the purposes of this Act will be performing an essential public function under the Constitution. The Authority shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 21. (a) The City tax rolls applicable to the property included in the Authority are hereby adopted and shall constitute the tax rolls of the Authority until assessments and tax rolls shall be made by the Authority.

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(b) Prior to the sale and delivery of Authority bonds which are payable wholly or partially from ad valorem taxes the Board shall appoint a tax assessor and collector and a board of equalization and cause taxes to be assessed, valuations to be equalized, and tax rolls to be prepared. General Laws applicable to water control and improvement districts with reference to tax assessors and collectors, boards of equalization, tax rolls and the levy and collection of taxes and delinquent taxes shall be applicable to this Authority. The Board is authorized by contract with City to provide that the taxes of the Authority may be collected by the tax collector of City.

Sec. 22. (a) The Board of the Authority shall have the power to adopt and promulgate all reasonable regulations to secure, maintain and preserve the sanitary condition of all water in and to flow into any intermediate or terminal reservoir owned by the Authority to prevent waste of water or the unauthorized use thereof, to regulate resident, hunting, fishing, boating and camping, and all recreational and business privileges, along or around any such reservoir or any body of land, or easement owned by the Authority.

(b) Such Authority may prescribe reasonable penalties for the breach of any regulation of the Authority, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200.00), or imprisonment for not more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction, provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the county in which such reservoir is situated, or in any county in which it is partly situated. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; one (1) notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice advice that the full text of the regulations sought to be enforced is on file in the principal office of the Authority, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty, and the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinance of a city of the state.

(c) Any duly constituted peace officer shall have the power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the Authority, and against the laws of the State of Texas, when any such offense or threatened offense, occurs upon any land, water, or easement owned or controlled by the Authority, or to make such arrest at any place, in case of an offense involving injury or detriment to any property owned or controlled by such Authority.

Sec. 23. Nothing in this Act shall be interpreted as amending or repealing Article 7471, Revised Civil Statutes of Texas, which provides for

priorities of the use of water. Acts 1962, 57th Leg., 3rd C.S., p. 32, ch. 12, §§ 1-23.

Emergency. Effective Feb. 1, 1962.

Art. 8280—271. Memorial Villages Water Authority

Section 1. Authority Created. Pursuant to, and as expressly authorized by Section 59, Article XVI of the Constitution of the State of Texas, and in addition to all other districts into which the State has been divided heretofore, there is hereby created a conservation and reclamation district to be known as "Memorial Villages Water Authority" (hereinafter referred to as the Authority), which shall be recognized to be a governmental agency, a body politic and corporate, and a political subdivision of this State. The area of the Authority shall consist of the following:

All land which on the effective date of this Act is located within the corporate limits of the City of Hedwig Village, Texas, located in the Isaac Bunker A-121 and A. H. Osbourne A-610 surveys, in Harris County, Texas; and all land which on the effective date of this Act is located within the corporate limits of the City of Piney Point Village, Texas located in the Bunker and Osbourne surveys and in the John D. Tayler survey A-72, except that certain area of 0.19 square miles annexed by Ordinance No. 19 passed and approved by the City Council of the City of Piney Point Village, Texas, on October 13, 1955, and delineated in METES AND BOUNDS OF PINEY POINT VILLAGE AND ANNEXED AREA recorded in Volume 3604, Page 708 of the Deed Records of Harris County, Texas, and in Volume 58, Page 41 of the Map Records of Harris County, Texas; and all land which on the effective date of the Act is located within the corporate limits of the City of Hunter's Creek Village, Texas, north of Buffalo Bayou except that portion thereof known as Creekside Manor subdivision in the said Taylor, Osbourne and R. Vince A-77 surveys, all of such land being situated in Harris County, Texas.

Sec. 2. No Confirmation Election, Hearing on Exclusion of Land, or Plan of Taxation Necessary.

It being hereby found and determined that all of the land included within the boundaries of the Authority will be benefited and that the Authority is created to serve a public use and benefit, it shall not be necessary for the Board of Supervisors to call a confirmation election or to hold a hearing on the exclusion of lands or a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the Authority.

Sec. 2a. In the event, but only in the event, that a majority of the qualified voters voting at the first bond election called for that purpose fail to approve the issuance of bonds, then the Authority shall, without further action terminate and be dissolved, and this Act shall be of no further force and effect.

Sec. 3. Governing Body of the Authority.

(a) The rights, powers and duties of the Authority shall be exercised by a Board of Supervisors composed of seven (7) members. Each Supervisor shall serve a term of office as herein provided, and thereafter until his successor shall be elected or appointed and have qualified. No person shall be a Supervisor unless he is at least twenty-one (21) years of age, and resides in and owns land in the territorial limits of the Authority. Each Supervisor shall subscribe to the constitutional oath of office and

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each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the Authority. A majority of said Board shall constitute a quorum for the transaction of any and all business.

(b) Immediately after this Act becomes effective, the following named persons, all of whom are found to be qualified, shall be the Supervisors of the Authority and shall constitute the Board of Supervisors of the Authority:

- Position 1—Jack M. Snowden
- Position 2—Tom H. Tennent
- Position 3—George A. Daniels
- Position 4—N. Hall McCord
- Position 5—J. M. Lebeaux
- Position 6—Frank A. DeWalch
- Position 7—Glen Wood Bruner

If any of the aforementioned persons shall become incapacitated or otherwise not be qualified to assume his duties under this Act, the remaining Supervisors shall appoint his successor. Succeeding Supervisors shall be elected or appointed as hereinafter provided.

(c) No person shall be eligible as a candidate for Position 1 or Position 2 unless he is at the time a bona fide resident of the City of Hedwig Village, Texas.

No person shall be eligible as a candidate for Position 3 or Position 4 unless he is at the time a bona fide resident of the City of Hunter's Creek Village, Texas.

No person shall be eligible as a candidate for Position 5 or Position 6 unless he is at the time a bona fide resident of the City of Piney Point Village, Texas.

Position 7 shall be classed as an "at large" position, and any person meeting the other requirements for Supervisor who resides within the territorial limits of the Authority shall be eligible for the office.

(d) The seven (7) persons appointed as members of the Board of Supervisors in this Act shall serve until the General Election to be held in 1963, or in 1964, as the case may be, and until their successors are elected and have qualified. It is specifically provided that there shall be a General Election within the Authority for Positions 1, 3 and 5 on the first Tuesday in April, 1963, or at whatever other date may be fixed by law for the holding of elections for officials of General Law cities, the date of such election to be set finally by the Board. At the first election, the persons elected to Positions 1, 3 and 5 shall be elected for a term of two (2) years and until their successors have been declared elected and have qualified. The persons appointed to Positions 2, 4, 6 and 7 shall serve until the General Election to be held on the first Tuesday in April, 1964, and until their successors have been declared elected and have qualified; and thereafter, there shall be an annual election on the first Tuesday in April of three (3) Supervisors in one year and four (4) Supervisors in the next year in continuing sequence, for terms of two (2) years. All vacancies shall be filled for the unexpired term thereof by appointment by the remaining members of the Board, subject to the qualifications herein set forth.

(e) All elections shall be ordered by the Board of Supervisors and shall be held in accordance with the Texas Election Code. Notice of any such election for Supervisors shall be published in a newspaper of general circulation in Harris County one time at least thirty (30) days before the election. The election order shall state the time, the place or places and

the purpose of the election, and the Board of Supervisors shall appoint a presiding judge for each polling place who shall appoint one assistant judge and at least two (2) clerks to assist in holding such election. Only qualified electors residing in the Authority shall be entitled to vote at an election on the Board of Supervisors. The candidates receiving the highest number of votes shall be declared elected. Returns of the election shall be made to and canvassed by the Board of Supervisors of said Authority, which shall enter its order declaring the results of the election.

(f) Any candidate for Supervisor desiring to have his name printed on the ballot may do so by a petition so requesting signed by not less than ten (10) residents of the Authority who are qualified to vote at the election. Such petition shall be presented to the Secretary of the Board of Supervisors not less than twenty (20) full days prior to the date of the election.

Sec. 4. Powers Granted to Authority.

The Authority shall have and exercise, and is hereby vested with, all of the rights, powers, and privileges conferred by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh-water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas; but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if written in full in this Act.

Without in any way eliminating the generalization of the foregoing, it is expressly provided that the Authority shall have and exercise, and is hereby vested with, all of the rights, powers and privileges conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Article 7930-4, Revised Civil Statutes of Texas, as amended, and including the power and authority to issue tax bonds, revenue bonds or combination tax and revenue bonds as authorized by and provided in Article 7941c, as amended, together with any and all other laws which are in any wise helpful in carrying out the purposes for which the Authority is created.

Sec. 5. Authority Shall Bear Sole Expense of Relocation of Certain Facilities.

In the event that the Authority, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the Authority. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 6. Taxation.

All provisions of the General Laws governing fresh-water supply districts relating to the assessment, levy, and collection of ad valorem taxes

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shall apply to the Authority, provided that the tax assessor and collector shall be appointed by the Board, shall serve at the pleasure of the Board, and need not be a resident or a voter of the Authority, and provided that the Board may contract with Harris County, or any city, town, village or school district in whole or in part within the Authority with regard to the assessment and collection of all taxes levied by and on behalf of the Authority. In the event that the taxes are assessed and collected under the terms of a contract as referred to, then the bond of the tax assessor and collector shall not be required, except as may be fixed by the Board in its discretion.

Sec. 7. Bonds Eligible for Investment and to Secure Deposits.

All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns and villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 8. Authority Depository.

The Board of Supervisors shall designate one or more banks within or without the Authority to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks except that sufficient funds shall be remitted to the bank or banks of payment of principal of and interest on the outstanding bonds of the Authority and in time that such may be received by the said bank or banks of payment on or prior to the date of the maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds. Membership on the Board of Supervisors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

Sec. 9. Authority and Bonds Exempt from Taxation.

The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and the industries, the Authority in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 10. Authority Authorized to Enter Into Water Supply Contracts.

The Authority is authorized to enter into contracts with cities and others for supplying water or sewer services to them. The Authority may also contract with any city for the rental or leasing, or for the operation of such city's water production, water supply, water filtration, or purification and water supply facilities or sewerage system or facilities. Any such contract may be upon such terms, for such consideration and for such

time as the parties may agree. No election shall be required of any city or town for approval of water, sewer, or water and sewer contracts, but such contracts may be entered into without the necessity of an election.

Sec. 11. Authority Declared Essential.

The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of the State of Texas wherein it is required to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the Authority herein created is essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested. All the terms and provisions of this Act are to be liberally construed to effectuate the purposes herein set forth.

Sec. 12. Saving Clause.

Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions the Authority shall have the power by resolution to provide an alternative procedure conformable to such constitutions. If any provision of the Act shall be invalid, such fact shall not affect the creation of the Authority or the validity of any other provision of this Act, and the Legislature hereby declares that it would have created the Authority and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof. Acts 1962, 57th Leg., 3rd C.S., p. 54, ch. 20, §§ 1-12.

Emergency. Effective Feb. 7, 1962.

Art. 8280—272. McLennan County Water Control and Improvement District—Bosqueville Hills

Section 1. Under and pursuant to the provisions of Article 16, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created and established in McLennan County, Texas, to be known as McLennan County Water Control and Improvement District—Bosqueville Hills, hereinafter sometimes called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59 of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained in the following described area and being in McLennan County, Texas:

BEGINNING at a concrete monument found at the most easterly southeast corner of City of Waco's Municipal Airport property, also being a point on the city limit boundary of the City of Waco. Said place of beginning also being a north corner of the E. M. Johnson 36.58 acre tract; also being a point which bears S 30 deg. 47' E, a distance of 24.96 feet from an iron pin set for the southwest corner of the Rolling Meadows Addition;

THENCE N 30 deg. 47' W along the east city limit boundary, a distance of 1617.7 feet for a corner, said corner also being on the north line of the J. G. Smith 38 Survey and on the south line of the T. R. Gupta 383 Survey;

THENCE S 59 deg. 05' W along a north city limit boundary line, a distance of 418.1 feet for a corner;

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THENCE N 30 deg. 32' W along the city limit boundary, a distance of 2925.60 feet for a corner;

THENCE S 59 deg. 05' W along the city limit boundary, a distance of 1420.1 feet for a corner;

THENCE N 75 deg. 43' W along the city limit boundary, a distance of 422.90 feet for a corner, said corner also being a point on the south line of the I. Gorman 382 Survey, and on the north line of the C. H. Leeds 537 Survey;

THENCE N 30 deg. 32' W along an east city limit boundary, a distance of 1728.45 feet to a corner;

THENCE N 14 deg. 15' E along an east city limit boundary line of the City of Waco property, a distance of 996.93 feet to a corner, said corner also being an inner northwest corner of the Fred Boggs 59.14 acre tract;

THENCE N 59 deg. 59' E along the north line of the Fred Boggs 59.14 acre tract, a distance of 553.87 feet to a corner, said corner also being a point on the west R. O. W. line of Farm to Market Road 1637 and the northeast corner of the Fred Boggs 59.14 acre tract;

THENCE N 74 deg. 47' W along the west R. O. W. of Farm to Market Road 1637, a distance of 424.20 feet for a corner;

THENCE N 14 deg. 15' E crossing Farm to Market Road 1637 and along an east property line of the City of Waco's property, a distance of 619.12 feet for a corner;

THENCE N 75 deg. 45' W along the north property line of the City of Waco's property, a distance of 150 feet for a corner;

THENCE S 14 deg. 15' W along the west property line of the City of Waco property, and crossing Farm to Market Road 1637, a distance of 1084.15 feet for a corner;

THENCE S 59 deg. 59' W, a distance of 492.17 feet for a corner, said corner also being a point on the east city limit boundary of the City of Waco;

THENCE N 30 deg. 32' W along the east city limit boundary, a distance of 856.75 feet for a corner, said corner also being a point on the south R. O. W. of Mitchiner Lane;

THENCE N 74 deg. 30' W crossing Mitchiner Lane, a distance of 1580.28 feet for a corner, said corner being the northwest corner of said water district boundary;

THENCE N 60 deg. E, crossing Farm Market Road 1637 and the Rock Creek Road, for a total distance of 10,382.69 feet to the northeast corner of said water district boundary, said corner also being a point which bears N 60 deg. E, a distance of 500 ft. from the east R. O. W. of Rock Creek Rd., also being a point in the north line of the R. A. Woodward 240 acre tract;

THENCE S 35 deg. 18 S, parallel to and 500 feet from the east R. O. W. of Rock Creek Road, for a distance of 393.71 feet for a corner;

THENCE S 37 deg. 16' E, a distance of 782.67 feet for a corner, said corner also being a point on the south line of the James Lane 531 Survey and a point on the north line of the A. Barnhouse 122 Survey, a distance of 500 ft. from the east R. O. W. of Rock Creek Road;

THENCE N 60 deg. E along the common survey boundary line, a distance of 1205 feet for a corner, said corner being the northeast corner of the A. Barnhouse 122 Survey, and the northwest corner of the Wm. Hawkins 398 Survey;

THENCE S 30 deg. E along the east survey line of the A. Barnhouse Survey and the west survey line of the Wm. Hawkins Survey, for a distance of 1645.76 feet to a corner, said corner also being the southwest corner of the Wm. Hawkins 398 Survey and a point on the north line of the I. K. Hawkins 397 Survey;

THENCE S 60 deg. W along the north survey line of the I. K. Hawkins 397 Survey, a distance of 100 feet for a corner;

THENCE S 30 deg. E, a distance of 792.30 feet for a corner, said corner being in the center of a county road;

THENCE N 60 deg. E along the center line of said county road, a distance of 850 feet for a corner;

THENCE S 30 deg. E a distance of 1509.56 feet for a corner, said corner also being a point on the north line of the A. Weaver 12.3 acre tract;

THENCE N 60 deg. E along the North line of the A. Weaver 12.3 acre tract, a distance of 508 feet for a corner, said corner also being the Northeast corner of the A. Weaver 12.3 acre tract;

THENCE S 30 deg. E, a distance of 1680 feet for a corner, said corner also being a point on the north line of the Mac F. Smith 68.74 acre tract;

THENCE N 60 deg. E along the north line of said 68.74 acre tract, a distance of 1040 feet to a point on the west bank of the Brazos River;

THENCE along the meanders of the west bank of the Brazos River in a southeasterly direction, same being the east property line of the Mac F. Smith 68.74 acre tract, also the east boundary property line of the Homer L. Smith 11.95 acre tract, also being the east boundary of the L. Andress 77 acre tract; also being the east boundary of the C. V. Smith 96 acre tract; also the east boundary of the E. L. Hinson 39.9 acre tract;

THENCE continuing east with the meanders of the Brazos River, same being the north property line of the John I. Sparks 3.7 acre tract, also the north boundary of the John L. Elliff 2.51 acre tract; also the north boundary of the Young brothers 2.75 acre tract to a corner, said corner also being the southeast corner of the W. L. Swain 40 Survey and the northeast corner of the John Tucker 41 Survey, also the southeast corner of the water district boundary;

THENCE S 60 deg. W along the common survey line, a distance of 8741.31 feet to a corner in the center of the Bosque River, same being the southwest corner of the E. A. MacNamara 14.72 acre tract and the southeast corner of the Harry E. Cordero 4.39 acre tract;

THENCE continuing in a southwesterly direction along the meanders and center line of the Bosque River to a point in the west R. O. W. of Farm Market Road 1637, same being the southwest corner of the Harry E. Cordero 4.39 acre tract;

THENCE S 72 deg. 54' W, crossing Farm Market Road 1637, a distance of 677 feet to a corner, said corner being the southwest corner of the E. R. Thomas 8.44 acre tract, also being a point on the east line of the U. S. A. 40.6 acre tract;

THENCE N 30 deg. 30' W along the east property line of said U. S. A. 40.6 acre tract, a distance of 692 feet for a corner, same being the northwest corner of said 40.6 acre tract;

THENCE S 60 deg. W along the north line of the U. S. A. 40.6 acre tract and the south property line of the P. L. Shotwell and J. W. Overby 19.03 acre tract, a distance of 1610 feet for a corner, same being the southwest corner of the 19.03 acre tract;

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THENCE N 30 deg. W, a distance of 594.4 feet to a corner, same being the northwest corner of the O. Holbert 43 acre tract;

THENCE S 60 deg. W along the north line of said 43 acre tract, a distance of 1102.79 feet for a corner;

THENCE S 30 deg. E, a distance of 130.5 feet for a corner;

THENCE S 83 deg. 30' W, a distance of 700 feet for a corner, said corner being a point on the east R. O. W. of a county road, and the southwest corner of the O. P. Wedemeyer 32 acre tract, also the southeast corner of the water district boundary;

THENCE N 28 deg. 30' W along the east R. O. W. of said county road, a distance of 1250 feet, said corner being a point on the existing city limit boundary of the City of Waco, and a point on the north R. O. W. of the Airport Road;

THENCE N 58 deg. 30' E along the north R. O. W. of the Airport Road, and also the south boundary of city limit line, a distance of 1066.67 feet to a corner, same being the southeast corner of the Waco city limit boundary;

THENCE N 29 deg. 04' W along the east boundary of Waco city limit, a distance of 1668.8 feet to a corner, same being the northwest corner of the E. M. Johnson 36.58 acre tract;

THENCE N 59 deg. 29' E along the south boundary of the city limit line and the north property line of the E. M. Johnson 36.58 acre tract, a distance of 531.7 feet to the Place of Beginning.

Sec. 3. It is expressly determined and found that all of the land and other property included within the area and boundaries of the District will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article 16, Section 59 of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 3a. It is determined and found by the Legislature that the boundaries and field notes of said District form a closure and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of said District and the right of said District to issue bonds or refunding bonds, or to pay the principal and interest thereon, and the right to assess, levy and collect taxes, or in any manner affect the legality or operation of said District or its governing body.

Sec. 4. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this State now in force, or hereafter enacted, applicable to water control and improvement districts created under authority of Article 16, Section 59 of the Constitution of Texas, but to the extent that the provisions of any such General Law may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. It shall not be necessary for the Board of Directors to call a confirmation election or to hold a hearing on the adoption of a plan of taxation. The ad valorem plan of taxation shall be used by the District. The provisions of the General Law pertaining to water control and improvement districts applicable to an exclusion hearing shall be applicable to this District, except that the notice for said hearing shall be by publication one (1) time in a newspaper having general circulation in the

District and that said publication shall be at least ten (10) days prior to said hearing.

Sec. 5. In no manner limiting the right, power or authority of the District, as heretofore granted, but specifically granting to the District the right, power and authority to purchase and construct or purchase or construct or acquire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities or parts of such systems or facilities, and to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary lands, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to purchase and sell water, and the District may exercise any of the rights, powers and authority within or without the boundaries of the District but only within the boundaries of the county in which the District is located, and the District may issue its bonds or refunding bonds for such purposes and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 6. All powers of the District shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a Director unless he owns taxable property in the District and resides in the county in which the District is located, but such Directors do not have to reside within the boundaries of the District. Such Directors shall subscribe to the Constitutional Oath of Office, and each shall give bond in the amount of One Thousand Dollars (\$1,000) for the faithful performance of his duties, the cost of which shall be paid by the District. The amount of the bond for Directors may be increased at the discretion of the Board of Directors to the amount provided by the General Law pertaining to water control and improvement districts. A majority shall constitute a quorum. Immediately after this Act becomes effective, the following named persons shall be the Directors of said District and shall constitute the Board of Directors of said District: Fred Boggs, Carlos V. Smith, Tom E. McNamara, P. E. Woodward and Joe Ray Lindsey, all residing within McLennan County, Texas. If any of the aforementioned persons shall die, become incapacitated or otherwise not be qualified to assume his duties under this Act, the remaining Directors shall appoint his successor. Succeeding Directors shall be elected or appointed as provided for in this Act. The first two (2) named Directors shall serve until the second Tuesday in January, 1963, and the last three (3) named Directors shall serve until the second Tuesday in January, 1964. An election for the election of Directors shall be held on the second Tuesday in January of each year beginning in 1963. Two (2) Directors shall be elected in each odd-numbered year and three (3) in each even-numbered year. The yearly elections shall be ordered by the Board of Directors. The notice of said Director election shall be by publication of said notice one (1) time in a newspaper of general circulation in said District and said publication shall be at least fourteen (14) days prior to said Director election. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board shall elect from its number a president and a vice-president of the District and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is ab-

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sent or fails or declines to act. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine such offices. The treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the District. The Board shall appoint all necessary engineers, attorneys, fiscal agents, managers, and employees. The Board shall adopt a seal for the District.

Sec. 7. Bonds or refunding bonds may be sold at a price and under terms determined by the Board of Directors of the District to be most advantageous reasonably obtainable, but none of said bonds or refunding bonds shall be sold for less than ninety-five per cent (95%) of their face value. The District may exchange bonds or refunding bonds for property acquired by purchase, or in payment of the contract price for work done or materials or services furnished for the use and benefit of the District, but such exchange of bonds or refunding bonds for property or facilities acquired by purchase, or in payment of the contract price for work done or materials or services furnished shall not be on a basis of less than ninety-five per cent (95%) of the face value of the bonds or refunding bonds so exchanged or used for payment as herein specified. When bonds or refunding bonds have been issued by the District and said bonds or refunding bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, said bonds or refunding bonds shall be negotiable, valid, legal and binding obligations and shall be incontestable for any cause.

Sec. 8. All bonds and refunding bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds and refunding bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds and refunding bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 9. The provisions of Article 7880—77b, Vernon's Civil Statutes, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election.

Sec. 10. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purpose of this Act will be performing an essential public function under the Constitution and the District shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 11. A complete system of accounts shall be kept by the District and an audit of its affairs for each year shall be prepared by a certified public accountant or an independent public accountant of recognized in-

tegrity and ability. The fiscal year of the District shall be from January 1st to December 31st and the audit shall conform to December 31st as the end of the fiscal year for the District. A written report of said audit shall be delivered to the President of the Board of Directors not later than March 15th of each year. A copy of such audit report shall be delivered upon request to the holder or holders of at least twenty-five per cent (25%) of the then outstanding bonds of the District. At least five (5) additional copies of said report shall be delivered to the office of the District, of which one (1) shall be filed in the office of the District and one (1) shall be filed in the office of the Auditor, and such copies shall constitute public records to be open to inspection by any interested person or persons. The cost of said audit shall be approved by the Board of the District and shall be paid by the District as an operating expense.

Sec. 12. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or changing in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 13. Said District, acting through its Board of Directors, shall have the right, power and authority to lease or contract for water supply, water system, sewage disposal system, drainage system, and related systems, facilities and services connected therewith, any or all of the foregoing, with any municipality, city, town, district, private or public corporation, private individual or individuals, or any branch, arm, service or subdivision of the Federal or State Government and said District as aforementioned may lease or contract to operate, maintain, bill and collect for services, account to said parties for any or all of said systems, services or facilities owned in whole or part by any of the aforementioned parties, and such leases or contracts may be made in the form and under the conditions and for the consideration and for the purposes deemed proper by said Board of Directors, and it is the intent of the Legislature that the rights, powers and authorities granted herein shall be construed liberally and may be accomplished, in whole or in part, by one or more contracts with one or more of the aforementioned parties. Acts 1962, 57th Leg., 3rd C.S., p. 74, ch. 29, §§ 1-13.

Emergency. Effective Feb. 9, 1962.

Art. 8280—273. Pettus Municipal Utility District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Bee County, Texas, to be known as "Pettus Municipal Utility District," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

Beginning at the Southeast corner of the Town of Pettus, Bee County, Texas, according to plat filed in Vol. K, Page 517, Deed Records, Bee County, Texas, in the George A. Kerr Survey, Abstract 209;

Thence N. 18° 10' W. with the eastern boundary line of said Town of Pettus a distance of 2,560 feet to the Northeast corner of said Town of Pettus;

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Thence S. 71° 50' W. along the northern boundary line of said Town of Pettus a distance of 103.9 feet;

Thence N. 60° 26' W. a distance of 40.3 feet;

Thence N. 71° 50' E. a distance of 214 feet;

Thence Northeasterly along the northern right-of-way line of F. M. Highway No. 623, rotating 24° 53' 53" about a radial center with radius of 449.26 feet, an arc distance of 195.23 feet, to a point on said northern right-of-way line of said Highway No. 623;

Thence N. 48° 14' E. along said Northern right-of-way line of said Highway No. 623 a distance of 50.66 feet to a corner of that certain tract of land conveyed by George A. Ray, Jr. to the Pettus Independent School District by Deed recorded in Volume 218, Page 292, Bee County records;

Thence N. 05° 20' W. with the eastern boundary of said tract of land conveyed by George A. Ray, Jr. to said School District a distance of 298.08 feet for a corner;

Thence S. 84° 17' W. a distance of 1,114.1 feet to a point for corner;

Thence N. 60° 26' W. a distance of 480.8 feet;

Thence S. 52° 40' W. a distance of 477.5 feet to the most easterly eastern boundary line of the Danaho Refinery tract, described in Deed of Trust Records, Volume 64, Page 424, Bee County records;

Thence N. 18° 10' W. with said most easterly eastern boundary line of the said Danaho Refinery tract a distance of 1,819.5 feet to the Northeast corner of said Danaho Refinery tract;

Thence S. 71° 50' W. with the northern boundary line of said Danaho Refinery tract, at 734 feet pass a $\frac{3}{4}$ inch iron pipe set in the eastern right-of-way line of the T & NO (S. P.) railroad property, and continuing on the same course along the westerly projection of said Northern boundary line of the said Danaho Refinery tract a distance of approximately 2250 feet to a point in the centerline of Medio Creek;

Thence down the centerline of said Medio Creek with its meanders in a generally southerly direction to a point in said centerline from whence the Northeast corner of the Denver C. Roberts 32.08 acre tract (description recorded in Deed Volume 184, Page 302) bears S. 58° 14' W. at approximately 580 feet;

Thence S. 58° 14' W., at approximately 580 feet pass a one inch iron pipe set at said Northeast corner of said Roberts 32.08 acre tract, a total distance of 2,369 feet, more or less, to the Northwest corner of said Roberts 32.08 acre tract;

Thence S. 70° 14' W. with the northern boundary line of the Fred Hoffer 11.25 acre tract, the northern boundary line of the Mineral Heights Subdivision, and continuing on the same course a total distance of approximately 4,480 feet to the western boundary line of said George A. Kerr Survey, Abstract 209;

Thence S. 20° E. with said western boundary line of said Kerr Survey a distance of approximately 943.5 feet to a point, said point being S. 20° E. 150 feet from the intersection of said western boundary line of said Kerr Survey and the southern right-of-way line of F. M. Highway No. 623;

Thence N. 70° 14' E. along a line parallel to and 150 feet at right angles southerly from said southern right-of-way line of F. M. Highway No. 623 a distance of approximately 6,880 feet, and continuing in a generally easterly direction along the tangents and curves of said line parallel

to and 150 feet at right angles southerly from such southern right-of-way line of said F. M. Highway 623 to a point in the centerline of said Medio Creek;

Thence in a generally southerly and westerly direction down the centerline of said Medio Creek with its meanders a distance of approximately 1,310 feet to its intersection with a line projected 800 feet westerly at right angles from the northerly projection of the western right-of-way line of U. S. Highway No. 181, and from such intersection a point in the centerline of said T. & NO Railroad bears N. 71° 50' E. at 970 feet;

Thence in a generally southerly direction along the tangents and curves of a line parallel to and 800 feet westerly at right angles from said northerly projection and said western right-of-way line of said highway a distance of approximately 2,650 feet to a point from whence the southeast corner of the George A. Ray, Jr. 75.64 acre tract bears S. 79° 20' E. at 843.8 feet and from whence a point in said western right-of-way line of U. S. Highway No. 181 bears S. 86° 53' E. at 800 feet;

Thence S. 86° 53' E. a distance of 689 feet to the point of intersection of the centerlines of two small creeks from whence a 1¼ inch iron pipe set at the southeast corner of said George A. Ray, Jr. 75.64 acre tract bears S. 49° 55' E. at 184.5 feet;

Thence in a generally easterly direction up the centerline of that one of the said two small creeks which runs approximately S. 86° 53' E., with its meanders, under U. S. Highway No. 181 and the T & NO Railroad and continuing up said creek to a point in its centerline from whence a point in the eastern right-of-way line of said T & NO Railroad bears N. 86° 53' W. at 800 feet and from whence said Southeast corner of said Ray 75.64 acre tract bears S. 86° 54' W. at 1,028 feet;

Thence in a generally northeasterly direction along the tangents and curves of a line parallel to and 800 feet easterly at right angles from the eastern right-of-way line of said T & NO Railroad a distance of approximately 3,000 feet to a point in the centerline of a small creek;

Thence up the centerline of said small creek with its meanders in a generally northeasterly direction a distance of approximately 940 feet to a point in the southern boundary line of the Town of Pettus from whence the Southeast corner of said Town of Pettus bears N. 71° 50' E. at approximately 700 feet;

Thence N. 71° 50' E along said southern boundary line of the Town of Pettus a distance of approximately 700 feet to the Southeast corner of the Town of Pettus, the place of beginning, containing 600 acres more or less, in Bee County, Texas.

Beginning at the Southeast corner of the Town of Pettus, Bee County, Texas, according to plat filed in Vol. K, Page 517, Deed Records, Bee County, Texas, in the George A. Kerr Survey, Abstract 209;

Thence N. 18° 10' W. with the eastern boundary line of said Town of Pettus a distance of 2,560 feet to the Northeast corner of said Town of Pettus;

Thence S. 71° 50' W. along the northern boundary line of said Town of Pettus a distance of 103.9 feet;

Thence N. 60° 26' W. a distance of 40.3 feet;

Thence N. 71° 50' E. a distance of 214 feet;

Thence Northeasterly along the northern right-of-way line of F. M Highway No. 623, rotating 24° 53' 53" about a radial center with radius of 449.26 feet, an arc distance of 195.23 feet, to a point on said northern right-of-way line of said Highway No. 623;

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Thence N. 48° 14' E. along said Northern right-of-way line of said Highway No. 623 a distance of 50.66 feet to a corner of that certain tract of land conveyed by George A. Ray, Jr. to the Pettus Independent School District by Deed recorded in Volume 218, Page 292, Bee County records;

Thence N. 05° 20' W. with the eastern boundary of said tract of land conveyed by George A. Ray, Jr. to said School District a distance of 298.08 feet for a corner;

Thence S. 84° 17' W. a distance of 1,114.1 feet to a point for corner;

Thence N. 60° 26' W. a distance of 480.8 feet;

Thence S. 52° 40' W. a distance of 477.5 feet to the most easterly eastern boundary line of the Danaho Refinery tract, described in Deed of Trust Records, Volume 64, Page 424, Bee County records;

Thence N. 18° 10' W. with said most easterly eastern boundary line of the said Danaho Refinery tract a distance of 1,819.5 feet to the Northeast corner of said Danaho Refinery tract;

Thence S. 71° 50' W. with the northern boundary line of said Danaho Refinery tract, at 734 feet pass a $\frac{3}{4}$ inch iron pipe set in the eastern right-of-way line of the T & NO (S. P.) railroad property, and continuing on the same course along the westerly projection of said Northern boundary line of the said Danaho Refinery tract a distance of approximately 2250 feet to a point in the centerline of Medio Creek;

Thence down the centerline of said Medio Creek with its meanders in a generally southerly direction to a point in said centerline from whence the Northeast corner of the Denver C. Roberts 32.08 acre tract (description recorded in Deed Volume 184, Page 302) bears S. 58° 14' W. at approximately 580 feet;

Thence S. 58° 14' W., at approximately 580 feet pass a one inch iron pipe set at said Northeast corner of said Roberts 32.08 acre tract, a total distance of 2,369 feet, more or less, to the Northwest corner of said Roberts 32.08 acre tract;

Thence S. 70° 14' W. with the northern boundary line of the Fred Hoffer 11.25 acre tract, the northern boundary line of the Mineral Heights Subdivision, and continuing on the same course a total distance of approximately 4,480 feet to the western boundary line of said George A. Kerr Survey, Abstract 209;

Thence S. 20° E. with said western boundary line of said Kerr Survey a distance of approximately 943.5 feet to a point, said point being S. 20° E. 150 feet from the intersection of said western boundary line of said Kerr Survey and the southern right-of-way line of F. M. Highway No. 623;

Thence N. 70° 14' E. along a line parallel to and 150 feet at right angles southerly from said southern right-of-way line of F. M. Highway No. 623 a distance of approximately 6,880 feet, and continuing in a generally easterly direction along the tangents and curves of said line parallel to and 150 feet at right angles southerly from such southern right-of-way line of said F. M. Highway 623 to a point in the centerline of said Medio Creek;

Thence in a generally southerly and westerly direction down the centerline of said Medio Creek with its meanders a distance of approximately 1,310 feet to its intersection with a line projected 800 feet westerly at right angles from the northerly projection of the western right-of-way line of U. S. Highway No. 181, and from such intersection a point in the centerline of said T. & NO Railroad bears N. 71° 50' E. at 970 feet;

Thence in a generally southerly direction along the tangents and curves of a line parallel to and 800 feet westerly at right angles from said northerly projection and said western right-of-way line of said highway a distance of approximately 2,650 feet to a point from whence the southeast corner of the George A. Ray, Jr. 75.64 acre tract bears S. 79° 20' E. at 843.8 feet and from whence a point in said western right-of-way line of U. S. Highway No. 181 bears S. 86° 53' E. at 800 feet;

Thence S. 86° 53' E. a distance of 689 feet to the point of intersection of the centerlines of two small creeks from whence a 1¼ inch iron pipe set at the southeast corner of said George A. Ray, Jr. 75.64 acre tract bears S. 49° 55' E. at 184.5 feet;

Thence in a generally easterly direction up the centerline of that one of the said two small creeks which runs approximately S. 86° 53' E., with its meanders, under U. S. Highway No. 181 and the T & NO Railroad and continuing up said creek to a point in its centerline from whence a point in the eastern right-of-way line of said T & NO Railroad bears N. 86° 53' W. at 800 feet and from whence said Southeast corner of said Ray 75.64 acre tract bears S. 86° 54' W. at 1,028 feet;

Thence in a generally northeasterly direction along the tangents and curves of a line parallel to and 800 feet easterly at right angles from the eastern right-of-way line of said T & NO Railroad a distance of approximately 3,000 feet to a point in the centerline of a small creek;

Thence up the centerline of said small creek with its meanders in a generally northeasterly direction a distance of approximately 940 feet to a point in the southern boundary line of the Town of Pettus from whence the Southeast corner of said Town of Pettus bears N. 71° 50' E. at approximately 700 feet;

Thence N. 71° 50' E. along said southern boundary line of the Town of Pettus a distance of approximately 700 feet to the Southeast corner of the Town of Pettus, the place of beginning, containing 600 acres more or less, in Bee County, Texas.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided that the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the 47th Legislature of Texas, Regular Session, 1941 (Article 7930-4, Vernon's Texas Civil Statutes, 1925, as amended), including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the 52nd Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes, as amended). Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof but wholly within Bee County necessary to carry out the

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powers and authority granted by this Act and said General Laws; and further provided, that before said District shall award contracts for the construction of its improvements it shall submit the plans and specifications for same to the Board of Water Engineers of Texas for approval, and, if any substantial changes are thereafter made in such plans, such changes shall also be submitted to said Board for approval. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be: R. F. Harris, Paul Avery, Fred Hoffer, Jesse L. Johnson and John B. Shaw. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the County Judge of Bee County, Texas, shall appoint his or their successors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected by General Law for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1964, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of General Laws relating to fresh water supply districts.

Sec. 4. All provisions of the General Laws relative to the assessment, levy, and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 5. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 6. It is specifically provided that said District may hereafter consist of separate bodies of land separated by land not embraced in the District. Land, contiguous or otherwise, may be added to said District not only in the manner now provided by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925, as amended, but also land may be added to such District and become a part thereof upon petition of the owner thereof in the following manner: the owner of the land shall file with the Board of Supervisors a petition praying that the lands described be added to and become a part of said District, and said petition may describe said land by metes and bounds or by lot and block number and shall be signed and executed in the same manner provided by law for the conveyance of real estate. Such petition shall be heard and considered by the Board of Supervisors and may be granted and said land added to the District if same is considered to be to the advantage of the District. Any such petition which may be granted so adding lands to a District shall be filed for record and be recorded in the office of the Bee County Clerk.

Sec. 7. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provision; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Acts 1962, 57th Leg., 3rd C.S., p. 109, ch. 38, §§ 1-7.

Emergency. Effective Feb. 16, 1962.

Art. 8280—274. Repealed. Acts 1963, 58th Leg., p. 132, ch. 79, § 1. Eff. 90 days after May 24, 1963, date of adjournment

Article 8280—274, creating the Brazoria County Water Control and Improvement District—Lake Alaska, was derived from Acts 1962, 57th Leg., 3rd C.S., p. 141, ch. 46, §§ 1-12.

Art. 8280—275. Repealed. Acts 1963, 57th Leg., p. 27, ch. 20, § 1. Eff. March 21, 1963

Article 8280—275, creating the Brazoria County Water Control and Improvement District—Brushy Meadows, was derived from Acts 1962, 57th Leg., 3rd C.S., p. 152, ch. 52, §§ 1-12.

Art. 8280—276. Dayton Drainage District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Liberty County, Texas, to be known as "Dayton Drainage District," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at a point on the West bank of the Trinity River marking the Northeast corner of the Liberty Town Tract North League, Abstract A-356, and marking the Northeast corner of the boundary of the District herein described;

THENCE Southerly along the West bank of the Trinity River passing the Southeast Corner of the said Liberty Town Tract North League, same being the Northeast corner of the Liberty Town Tract South League and continuing along the West bank of the Trinity River to the Southeast

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corner of said Liberty Town Tract South League, same being the Northeast corner of the Elizabeth Munson Survey a point for corner;

THENCE West along the North boundary line of the Elizabeth Munson Survey to the intersection with the Easterly bank of Day Lake, a point for corner;

THENCE in a Southerly direction with the meanders of the East bank of Day Lake to the intersection of the South boundary line of the said Elizabeth Munson Survey, a point for corner;

THENCE Westerly along the South boundary line of the said Elizabeth Munson Survey to the intersection with a point on the South line of the said Elizabeth Munson Survey marking a boundary corner of the Old River Drainage District No. 1 of Liberty County, Texas, the boundary of which is described in Volume C, Page 311 of the Records of the County Commissioners Court of Liberty County, Texas;

THENCE in a Westerly direction and in the boundary of the said Old River Drainage District No. 1 and along the South boundary of the said Elizabeth Munson Survey, 8000 feet to a boundary corner of said Old River Drainage District No. 1 in the East line of a graded Dayton-Mt. Belview road;

THENCE with the boundary of the said Old River Drainage District No. 1 Northerly with the East line of the graded Dayton-Mt. Belview Road to the North line of the said Elizabeth Munson Survey;

THENCE with the boundary of the said Old River Drainage District No. 1 Easterly along the North line of the said Elizabeth Munson Survey to the Southeast corner of Lot No. 46 of the Maysville Addition to Dayton;

THENCE with the boundary of the said Old River Drainage District No. 1 Northerly along the East line of Lot No. 46 and Lot No. 25 of the said Maysville Addition to the Northeast corner of Lot No. 25 of the said Maysville Addition;

THENCE with the boundary of the said Old River Drainage District No. 1 Westerly along the North line of Lot No. 25 of the said Maysville Addition to the Southeast corner of Lot No. 21 of the said Maysville Addition;

THENCE with the boundary of the said Old River Drainage District No. 1 Northerly with the East line of Lots No. 21 and No. 2 of the said Maysville Addition to the Northeast corner of said Lot No. 2;

THENCE with the boundary of the said Old River Drainage District No. 1 Westerly with the North line of Lot No. 2 of the said Maysville Addition to the Southeast corner of the R. E. Armstrong 7.56 acre tract;

THENCE Northerly with the boundary line of the said Old River Drainage District No. 1 and the East boundary line of the said R. E. Armstrong 7.56 acre tract to the South line of the Dayton Lumber Company 95 acre mill tract;

THENCE Westerly with the boundary of the said Old River Drainage District No. 1 and the South boundary line of the said Dayton Lumber Company 95 acre mill tract to the Southwest corner thereof;

THENCE North $18^{\circ} 30'$ West along the boundary line of the said Old River Drainage District No. 1 and the West boundary line of the Dayton Lumber Company 95 acre mill tract to the Northwest corner thereof;

THENCE Easterly with the boundary of the said Old River Drainage District No. 1 and the North boundary line of the Dayton Lumber Company 95 acre mill tract to the Southwest corner of the Liberty Town Tract North League;

THENCE Northerly with the boundary of the said Old River Drainage District No. 1 and the West boundary line of the said Liberty Town Tract North League to the West boundary line of a graded road same being the Dayton-Cleveland Road;

THENCE Northwesterly with the boundary of the said Old River Drainage District No. 1 and along the said graded road to the intersection of the said District boundary and with the North boundary line of the Liberty Town Tract West League;

THENCE Easterly along the North line of the Liberty Town Tract West League, and the Liberty Town Tract North League to the Place of Beginning.

Sec. 2. Said District shall be considered to be organized and existing for the sole purpose of the reclamation and drainage of its overflowed lands and other lands needing drainage, and to accomplish such purpose the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas, now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof (but wholly within Liberty County) necessary to carry out the powers and authority granted by this Act and said General Laws; provided, however, that before said District shall expend any moneys received from the sale of any bonds it may hereafter issue, sell and deliver, it shall submit the plans and specifications of the improvements proposed to be constructed with said moneys to the Board of Water Engineers of Texas for approval, and, if any substantial changes are thereafter made in such plans, such changes shall also be submitted to said Board for approval. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon boards of directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be T. O. Ponder, Clodis H. Cox, Luke Walker, Robert D. Harris, and Jack C. Manning. Said members shall become Directors immediately after this Act becomes effective, and said first Board of Directors shall meet and organize as soon as practica-

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

ble after the effective date of this Act, and shall file their official bonds. If any of the afore-mentioned members of said first Board of Directors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the County Judge of Liberty County, Texas, shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1964, and in accordance with Article 7880-37, Revised Civil Statutes of Texas, 1925, as amended. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 4. All provisions of the General Laws relating to the assessment, levy, and collection of ad valorem taxes shall apply to the District. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors of said District to hold a hearing on the adoption of a plan of taxation.

Sec. 5. Land, contiguous to said District or otherwise, may be added to said District in the manner provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 6. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon adoption of this Act, said District shall be a fully created and established water control and improvement district.

Sec. 7. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provision; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Acts 1962, 57th Leg., 3rd C.S., p. 176, ch. 65, §§ 1-7.

Emergency. Effective Feb. 16, 1962.

Art. 8280—277. Henderson County Municipal Water Authority

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a District to be known as "Henderson County Municipal Water Authority," (hereinafter called "Authority"), which shall be a governmental agency and a body politic and corporate.

Sec. 2. The Authority shall contain the following described territory in Henderson County, Texas:

From the northwest corner of the Sanitago Calderson Survey A136, same being the southwest corner of the Simon Weiss Survey A799, North 24° 11' East, a distance of 4,120' to the POINT OF BEGINNING;

THENCE, North 90° 00' East a distance of 8,600' for the northeast corner of said Authority;

THENCE, South 0° 00' East a distance of 8,565' for the southeast corner of said Authority;

THENCE, South 90° 00' West a distance of 8,600' for the southwest corner of said Authority;

THENCE, North 0° 00' East a distance of 8,565' for the northwest corner of said Authority, same being the POINT OF BEGINNING, and containing 1,691 acres, more or less.

Sec. 3. (a) All powers of the Authority shall be exercised by a board of five (5) directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be appointed and qualified. No person shall be a director unless he resides in and owns taxable property in the Authority. No member of the governing body of any city or town, and no employee of a city or town shall be a director. Such directors shall subscribe to the constitutional oath of office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the Authority. A majority shall constitute a quorum.

(b) Immediately after this Act becomes effective, the County Judge of Henderson County shall call an election for the election of five (5) directors. The election order shall appoint a presiding judge who is authorized to appoint an assistant judge and such clerks as may be necessary to hold such election. Notice of the election shall be published in a newspaper published in Henderson County at least one (1) time, at least ten (10) days prior to the date set for the election. Only qualified voters residing in the Authority shall be entitled to vote. The returns of the election shall be made to and canvassed by the County Judge who shall enter an order declaring the result thereof. As soon as such directors qualify, they shall hold a meeting and determine by lot (unless otherwise determined by unanimous vote of the board of directors) the two (2) directors whose terms shall expire the second Tuesday in January, 1963, and the three (3) whose terms shall expire the second Tuesday in January, 1964.

(c) On the second Tuesday in January of each year thereafter, there shall be elected two (2) directors or three (3) directors, as the case may be, who shall succeed the directors whose terms are then scheduled to expire. Each director so elected shall serve for a term of two (2) years from the date of his election, or until his successor is elected and qualified.

(d) The regular elections shall be ordered by the board of directors. The board shall appoint the presiding judge, who shall appoint an assistant judge and at least two (2) clerks. Notice of the election shall be published in a newspaper published in Henderson County one (1) time at least ten (10) days prior to the election. Only qualified voters residing in the Authority shall be entitled to vote. The returns of the election shall be made to and canvassed by the board of directors of the Authority who shall adopt a resolution declaring the result thereof.

(e) Any candidate for director desiring to have his name printed on the ballot may do so by a petition so requesting signed by not less than five (5) residents of the Authority who are qualified to vote at the election. Such petition shall be presented to the County Judge for the first election and thereafter to the secretary of the board of directors. The petition shall be presented on such date as will allow not less than fifteen (15) full days between the date of presentation and the date of the election.

(f) Vacancies occurring in the board of directors shall be filled for the unexpired term by majority vote of the remaining directors.

(g) Each director shall receive a fee of not to exceed Ten Dollars (\$10) for attending each meeting of the board. Each director shall also be en-

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titled to receive not to exceed Ten Dollars (\$10) per day devoted to the business of the Authority and to reimbursement for actual expenses incurred in attending to Authority business provided that such service and expense are expressly approved by the board.

Sec. 4. The board of directors shall elect from its number a president and a vice-president of the Authority, and such other officers as in the judgement¹ of the board are necessary. The president shall be the chief executive officer of the Authority and the presiding officer of the board, and shall have the same right to vote as any other director. The vice-president shall perform all duties and exercise all powers conferred by this Act upon the president when the president is absent or fails or declines to act. The board shall also appoint a secretary and a treasurer who may or may not be members of the board, and it may combine those officers. The treasurer shall give bond in such amount as may be required by the board of directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the Authority. The board shall appoint all necessary engineers, attorneys and other employees. The board shall adopt a seal for the Authority.

Sec. 5. Other territory in Henderson County may be annexed in the following manner:

(a) A petition praying for such annexation signed by fifty (50) or a majority of the qualified voters of the territory to be annexed who own taxable property therein and who have duly rendered the same to the county for taxation shall be filed with the board of directors of the Authority. The petition shall describe the territory by metes and bounds or otherwise unless such territory is the same as that contained in a city or town, in which event it shall be sufficient to state that the territory to be annexed is that which is contained within such city or town.

(b) If the board of directors finds that the petition complies with, and is signed by the number of qualified persons required by the foregoing Subsection, that the annexation would be to the interest of the Authority, and that the Authority will be able to supply water or sewer service to the territory, it shall adopt a resolution stating the conditions, if any, under which such territory may be annexed to the Authority, and requesting the Commissioners Court of Henderson County to annex said territory to the Authority. A certified copy of such resolution and of the petition shall be filed with said Court.

(c) The Commissioners Court shall adopt a resolution declaring its intention to call an election in the territory for the purpose of submitting the proposition of whether or not such territory shall be annexed to the Authority, and fix a time and place when and where a hearing shall be held by said Court on the question of whether the territory proposed to be annexed will be benefited by the improvements, works and facilities which the Authority is authorized to acquire or construct.

(d) Notice of the adoption of such resolution stating the time and place of such hearing, addressed to the citizens and owners of property in such territory shall be published one (1) time in a newspaper designated by the Commissioners Court at least ten (10) days prior to the date of such hearing. The notice shall describe the territory proposed to be annexed in the same manner as required or permitted for the petition.

(e) All persons interested may appear at such hearing and offer evidence for or against the intended annexation. Such hearing may proceed in such order and under such rules as may be prescribed by the Commis-

sioners Court, and the hearing may be recessed from time to time. If, at the conclusion of the hearing, the Commissioners Court finds that all of the land in the territory proposed to be annexed will be benefited by the present or contemplated improvements, works and facilities of the Authority, the Court shall adopt a resolution calling an election in the territory to be annexed stating therein the date of the election, the place or places of holding the same, and appointing a presiding judge for each voting place who shall appoint the necessary assistant judges and clerks to assist in holding the election.

(f) Notice of such election, stating the date thereof, the proposition to be voted upon and the conditions under which the territory may be annexed, or making reference to the resolution of the board of directors for that purpose, and the place or places of holding the same, shall be published one (1) time in a newspaper designated by the Commissioners Court at least ten (10) days before the day set for the election.

(g) Only qualified electors who reside in such territory shall be qualified to vote in said election. Returns of said election shall be made to the Commissioners Court of Henderson County.

(h) The ballots for said election shall have printed thereon the words "For Annexation" and "Against Annexation."

(i) The Commissioners Court shall canvass the returns of the election and pass an order declaring the results thereof. If such order shows that a majority of the votes cast are in favor of annexation, said Court shall annex said territory to the Authority, and such annexation shall thereafter be incontestable except within the time for contesting elections under the general election law.

(j) The board in calling the election on the proposition for annexation of territory, may include as a part of the same proposition, a proposition for the assumption of its part of the tax-supported bonds of the Authority then outstanding and those theretofore voted but not yet sold, and for the levy of an ad valorem tax on taxable property in said territory along with the tax in the rest of the Authority for the payment thereof.

(k) After territory is added to the Authority, the board of directors of the Authority may call an election over the entire Authority for the purpose of determining whether the entire Authority as enlarged shall assume the tax-supported bonds then outstanding and those theretofore voted if any, but not yet sold and whether an ad valorem tax shall be levied upon all taxable property within the Authority as enlarged for the payment thereof, unless such proposition had been voted at the same time as the annexation election and has become lawfully binding upon the territory annexed. Such election shall be called and held in the same manner as elections for the issuance of bonds as provided in this Act.

Sec. 6. The Authority is hereby empowered to develop or purchase and produce surface and underground sources of water. The Authority is empowered to construct or purchase all works, plants, and other facilities necessary or useful for the purpose of treating such water and transporting and distributing it for municipal, domestic, and industrial purposes. The Authority shall at all times have power to develop or purchase additional underground and surface sources of water and to improve, enlarge and extend its water system. The Authority is also empowered to construct and operate a sanitary sewer system and disposal plants and equipment, and to contract with a city to dispose of sewage from the Authority's sewer system. It is hereby found and declared

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that such sanitary sewer facilities are necessary for the protection of surface and underground waters. The Authority is authorized to lay its water and sewer lines and facilities in the streets, alleys and public places in the city contained in the Authority, and to maintain the same.

Sec. 7. (a) For the purpose of carrying out any power or authority conferred by this Act, the Authority shall have the right to acquire land and easements within Henderson County by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The power of eminent domain shall be restricted to Henderson County, Texas. The amount of and character of interest in land and easements thus to be acquired shall be determined by the board of directors. The Authority shall have the same power as is conferred upon water control and improvement districts by Section 49 of Chapter 25, Acts of the Thirty-ninth Legislature,² with reference to making surveys and to attending to other business of the Authority.

(b) In the event that the Authority, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the Authority. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacements without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 8. Any construction contract or contract for the purchase of material, equipment or supplies requiring an expenditure of more than Two Thousand Dollars (\$2,000) shall be made to the lowest and best bidder after publication of a notice to bidders one each week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper published in Henderson County and designated by the board of directors. This Section, however, shall not apply to the purchase of any system or part thereof in existence at the time of such purchase.

Sec. 9. (a) For the purpose of carrying out any power or authority conferred by this Act, the Authority is empowered to issue its negotiable bonds to be payable from such revenues of the Authority as are pledged by resolution of the board of directors or by a trust indenture authorized by said board.

(b) Such bonds shall be authorized by resolution of the board of directors and shall be issued in the name of the Authority, signed by the president or vice-president, attested by the secretary, or the facsimile of either or both such signatures may be printed or lithographed thereon, and have the seal of the Authority impressed thereon, or a facsimile of the seal reproduced thereon. They shall mature serially or otherwise in not to exceed forty (40) years and they may be sold at a price and under terms determined by the board of directors to be the most advantageous reasonably obtainable, provided that the interest cost to the Authority, calculated by use of standard bond interest tables currently in

use by insurance companies and investment houses including the discount, if any, does not exceed six per cent (6%) per annum, and within the discretion of the board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution or indenture authorizing the bonds, and may be made registerable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the Authority, or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues specified by resolution of the board of directors. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the Authority after deduction of the amount necessary to pay the cost of maintaining and operating the Authority and its properties.

(e) For the purposes stated in Section 9(a) hereof, the Authority is also empowered to issue bonds payable from ad valorem taxes to be levied on all taxable property therein, or to issue bonds secured both by and payable from such taxes and revenues of the Authority. Where bonds are issued payable wholly or partially from ad valorem taxes, it shall be the duty of the board of directors to levy a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, but the rate of the tax for any year may be fixed after giving consideration to the money received from the pledged revenues which may be available for payment of principal and interest to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(f) Where bonds payable wholly from revenues are issued, it shall be the duty of the board of directors to fix, and from time to time to revise, the rates of compensation for water sold for sewer service rendered by the Authority which will be sufficient to pay the expense of operating and maintaining the facilities of the Authority and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the resolution authorizing the bonds. Where bonds payable partially from revenues are issued, it shall be the duty of the board to fix, and from time to time to revise, the rate of compensation for water sold for sewer service rendered by the Authority which will be sufficient to assure compliance with the resolution authorizing the bonds.

(g) From the proceeds from the sale of the bonds, the Authority may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which this Authority is created. Proceeds from the sale of bonds may be invested in direct obligations of the United States of America, or obligations unconditionally guaranteed by Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Associations, Federal Home Loan Banks for Cooperatives.

(h) In the event of a default or a threatened default in the payment of principal or of interest on bonds payable wholly or partially from

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revenues, any court of competent jurisdiction may, upon petition of the holders of fifty per cent (50%) of the outstanding bonds of the issue thus in default or threatened with default, appoint a receiver with authority to collect and receive all income of the Authority except taxes, employ and discharge agents and employees of the Authority, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the Authority without consent of or hinderance³ by the directors. Such receiver may also be authorized to sell or make contracts for the sale of water and contracts relating to sewer service and operation of the sewer system, or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds.

Sec. 10. The Authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. The provisions of this law with reference to the issuance of other bonds and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, or with the trustee if a trust indenture is executed by the Authority, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 11. Any bonds (including refunding bonds) authorized by this law, not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture which may create a lien upon physical properties of the Authority, and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such indenture may contain any provisions prescribed by the board of directors for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds. Any purchaser under a sale under such indenture shall be the owner of the properties, franchises, easements, water rights, permits, leases, contracts and all rights appurtenant thereto, so purchased and shall have the right to maintain and operate the same.

Sec. 12. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by a majority vote at an election at which only the qualified voters who reside in the Authority and who own taxable property therein and who have duly rendered the same for taxation. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such election may be called by the board of directors without a petition. The resolution calling the election shall specify the time and place of holding the same, the purpose for which the bonds are to be is-

sued, the maximum amount thereof, the maximum maturity thereof, the form of the ballot, and the presiding judge for each voting place. The presiding judge serving at each voting place shall appoint one (1) assistant judge and at least two (2) clerks to assist in holding such election. Notice of the election shall be given by publishing a substantial copy thereof in a newspaper published in Henderson County for two (2) consecutive weeks. The first publication shall be at least twenty-one (21) days prior to the election.

(c) The returns of the election shall be made to and canvassed by the board of directors of the Authority.

(d) The General Laws relating to elections shall be applicable to elections held under this Section of this law except as otherwise provided in this law.

Sec. 13. After any bonds are authorized by the Authority, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the Authority and any city or other governmental agency or district, a copy of such contract and the proceedings of the city or other governmental agency or district authorizing such contract shall also be submitted to the Attorney General. If the Attorney General finds that such bonds have been authorized and if such contracts have been made in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds and such contracts, and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 14. Prior to the sale and delivery of Authority bonds which are payable wholly or partially from ad valorem taxes the board of directors shall appoint a tax assessor and collector and a board of equalization and cause taxes to be assessed, valuations to be equalized, and tax rolls to be prepared. General Laws applicable to water control and improvement districts with reference to tax assessors and collectors, boards of equalization, tax rolls and the levy and collection of taxes and delinquent taxes shall be applicable to this Authority. For the first year when tax rolls are thus to be prepared, the board of directors may fix the dates for renditions, assessments and equalization board meetings.

Sec. 15. (a) The board of directors shall designate one or more banks to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust indenture, and except that funds shall be remitted to the bank of payment of principal of and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the board of directors shall issue a notice stating the time and place when and where the board will meet for such purpose and inviting the banks to submit applications to be designated depositories. The terms of service for depositories shall be prescribed by the board. Such notice shall be published one (1) time in a newspaper published in Henderson County and specified by the board at least ten (10) days before the date set for re-

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ceiving applications, but in lieu of such publication, a copy of such notice may be mailed to each bank in Henderson County.

(c) At the time specified in the notice, the board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositaries the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the Authority and which the board finds have proper management and are in condition to warrant handling of Authority funds. Membership on the board of directors of an officer or director of a bank shall not disqualify such bank from being designated as depositary.

(d) If no application is received by the time stated in the notice or if no application is accepted, the board shall designate some bank or banks within or without Henderson County upon such terms and conditions as it may find advantageous to the Authority.

Sec. 16. The Authority is authorized to acquire water appropriation permits directly from the Board of Water Engineers of the State of Texas, or from owners of permits. The Authority is also authorized to purchase water or a water supply from any city, district, person, firm, corporation or public agency.

Sec. 17. All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, the State Permanent School Fund and the Teachers' Retirement Fund, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 18. The accomplishment of the purposes stated in this Act is for the benefit of the people of this State and for the improvement of their properties and industries and the Authority in carrying out the purposes of this Act will be performing an essential public function under the Constitution. The Authority shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State. Acts 1962, 57th Leg., 3rd C.S., p. 184, ch. 70, §§ 1-18.

¹ So in enrolled bill.

² Article 7880—49.

³ So in advanced bill.

Emergency. Effective Feb. 16, 1962.

Art. 8280—278. Port Mansfield Public Utility District

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Willacy County, Texas, to be known as "Port Mansfield Public Utility District," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

STARTING with the U. S. Coastal and Geodetic Survey, permanent bench Sauz, which is located as latitude 26 degrees, 32 minutes, 16.012 seconds, and longitude 97 degrees, 25 minutes, 13.527 seconds;

THENCE, at an azimuth 202 degrees, 32 minutes, for a distance of 351.4 feet to the point of beginning, said point being at the ordinary high tide line on the shoreline of Red Fish Bay and being the southeast corner of said District;

THENCE, west (azimuth 270 degrees, 0 minutes) for a distance of 7,940 feet to a point, said point being the southwest corner of said District;

THENCE, north (azimuth 0 degrees, 0 minutes) for a distance of 11,880 feet to a point, said point being the northwest corner of said District;

THENCE, east (azimuth 90 degrees, 0 minutes) for a distance of 5,280 feet to the ordinary high tide line on the shore line of Red Fish Bay, said point being the northeast corner of said District;

THENCE, generally southward, following said ordinary high tide line of Red Fish Bay to the southeast corner of said District and POINT OF BEGINNING, containing 1,760 acres of land, more or less, and being out of and a part of the San Juan de Carricitos Grant in Willacy County, Texas.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the Forty-seventh Legislature of Texas, Regular Session, 1941 (Article 7930—4, Vernon's Texas Civil Statutes, 1925, as amended), including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the Fifty-second Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes, as amended); provided, however, it shall not be necessary to have an election to authorize any District obligations payable from any source other than ad valorem taxation. Said District shall also have authority to act jointly with individuals, with firms, with partnerships, with corporations, with other districts, with political subdivisions of the State, with other states, with cities and towns and with the Federal Government in the performance and accomplishment of any of the things permitted hereunder upon such terms and conditions as may be deemed advisable by said District's Board of Supervisors. Such authority of said Board shall include, but not be limited to, the right to make and execute District contracts for the purchase and sale (or either) of water for such periods of time, not exceeding forty (40) years, as said Board may deem advisable. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, rail-

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road, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 2A. Notwithstanding any other provisions of this Act, the provisions of eminent domain herein provided for shall be limited to Willacy County.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) supervisors and the Port Director of Willacy County Navigation District, who shall serve as an ex officio member of said Board of Supervisors. Said Port Director shall have no voting rights at meetings of said Board; and any three (3) supervisors, exclusive of said Port Director, shall constitute a quorum, and a concurrence of any three (3) supervisors shall be sufficient in all said District's business matters, as provided by the General Laws relating to fresh water supply districts. Said Board of Supervisors shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be John Hudson, D. M. Monsees, J. A. Liles, J. H. Todd and Clifton A. Bradford. Said members shall become supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the Board of Navigation and Canal Commissioners of the Willacy County Navigation District shall appoint his or their successors. The term of office of each member of the first Board of Supervisors shall expire on January 15, 1965. With the exception of the first Board of Supervisors, said Board shall be appointed, as herein provided, by the Board of Navigation and Canal Commissioners of Willacy County Navigation District. In January, 1965, the Board of Navigation and Canal Commissioners of Willacy County Navigation District shall appoint three (3) supervisors to serve for a term of two (2) years and two (2) supervisors to serve for a term of one year. In January, 1966, two (2) supervisors shall be appointed to serve for a term of two (2) years, and thereafter three (3) supervisors shall be appointed (for a two-year term) in one year and two (2) supervisors shall be appointed (for a two-year term) in the next year in continuing sequence. The terms of the supervisors shall expire on the 15th day of January of the year in which their respective terms would terminate under the provisions of this Act. A supervisor need not be a resident or landowner of the District, but must be a resident of Willacy County, Texas.

Sec. 4. The assessor and collector of taxes in Willacy County shall, ex officio, be the assessor and collector of taxes for the District, and except as herein provided, taxes shall be levied and collected under the provisions of the General Laws applicable to fresh water supply districts. The blanks used by the assessor and collector to accept rendition of property for taxation by Willacy County shall be printed so as to show that the rendition of property situated in the District is also made for the

benefit of the District. The property which is situated in the District shall be clearly indicated on the approved tax rolls in the office of the assessor and collector. The value of property situated in the District as equalized by the Board of Equalization of Willacy County, finally approved by the Commissioners Court of Willacy County and as extended on the approved tax rolls of Willacy County, shall constitute the assessed values of such property for purposes of District taxation. Within five (5) days after the approval of the report of the Board of Equalization by the Commissioners Court of Willacy County, said assessor and collector of taxes shall certify to the District the total assessed valuation of property situated in the District according to such approved rolls. For his services rendered to the District in assessing and collecting taxes for the District, the Willacy County Tax Assessor and Collector shall be entitled to deduct from all taxes thus collected on the current year's tax rolls a sum as agreed upon by the Board of Supervisors, not to exceed the amount provided by the General Laws relative to the assessment, levy and collection of ad valorem taxes, and for the collection of delinquent taxes compensation in like manner to that which he receives in collecting delinquent state and county taxes, provided that no duplicated charge shall be made for costs of suit where a charge is made in reference to enforcement of state and county taxes.

Sec. 5. Land, contiguous to said District, may be added to said District not only in the manner now provided by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925, as amended, but also land may be added to such District and become a part thereof upon petition of the owner or owners thereof in the following manner: the owner or owners of the land shall file with the Board of Supervisors a petition praying that the lands described be added to and become a part of said District, and said petition may describe said land by metes and bounds or by lot and block number and shall be signed and executed in the same manner provided by law for the conveyance of real estate. Such petition shall be heard and considered by the Board of Supervisors and may be granted and said land added to the District if same is considered to be to the advantage of the District. Any such petition which may be granted so adding lands to the District shall be filed for record and be recorded in the Willacy County Deed Records.

Sec. 6. The Board of Supervisors shall employ all necessary employees for the proper handling and operation of the District, and especially may employ a general manager, attorneys, bookkeeper and an engineer and such assistants and laborers as may be required, upon such terms and for such compensation as shall be fixed by said Board of Supervisors.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 8. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provision; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency,

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a body politic and corporate, and a municipal corporation. Acts 1963, 58th Leg., p. 4, ch. 4.

Emergency. Effective Feb. 15, 1963.

Art. 8280—279. Lakeside Water Supply District

Section 1. District Created. Under and pursuant to the provisions of Article XVI Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created in Bosque County to be known as LAKESIDE WATER SUPPLY DISTRICT, hereinafter referred to as the "District," which shall be a governmental agency and body politic and corporate and a municipal corporation.

Sec. 2. Territory Comprising District. The area of the District is hereby established to comprise all territory contained within the boundaries described as follows, to-wit:

BEGINNING at the northeast corner of the Lakeside Village, for the northeast corner of this tract.

THENCE S 65 W 1550 feet along the north line of Lakeside Village and S 76 W 2500 feet along the north line of the Nona Benson Greer tract to its northwest corner and the northwest corner of this tract.

THENCE S 30 E 1950 feet to a southwest corner of the said Greer tract and a corner of this tract, in the north line of the M.K.T. Railroad right-of-way.

THENCE S 70 E 1550 feet to the southwest corner of the said Greer tract and a corner of this tract, being along the east line of the said railroad right-of-way.

THENCE N 60 E along the south line of the said Greer tract 1850 feet to a point in the east line F.M. Road # 56 for the northwest corner of the Mooney Village and a corner of this tract.

THENCE Southeasterly along the west line of Mooney Village, 1700 feet to a point in the east line of said highway # 56 for a corner of this tract.

THENCE Southeasterly along the west line of a country road 1100 feet, more or less, to the northeast corner of the Vinson's Roadside Village, for a corner of this tract;

THENCE S 60 E 145 feet to the northwest corner of the said Vinson's Village and a corner of this tract;

THENCE S 38 deg. 30 min. E 1112 feet to the southwest corner of said Vinson's Roadside Village and a corner of this tract;

THENCE N 60 E 185 feet to a point in the east line of a public road for a corner of this tract;

THENCE N 38 deg. 30 Min. w 1112 feet to the southwest corner of the said Mooney Village and a corner of this tract;

THENCE N 60 E 866.7 feet to the southeast corner of the said Mooney Village and a corner of this tract being on the U. S. Government property line of Lake Whitney;

THENCE Northerly along said property line with its meanders to a point for a corner of this tract being the northeast corner of Lot # 22 of said Lakeside Village subdivision;

THENCE departing from the U. S. Government property line and along the east line of the said Lakeside Village S 58 W 500 feet and N 33 W 900 feet to the place of beginning.

Being 295 acres of land situated in the William Bowen, Jr. Survey, Abst. # 53 and the Susannah McKilvy Survey, Abst. # 513, Bosque County,

Texas. Said land is all of Lakeside Village described in Vol. 168, page 338; Mooney Village, described in Vol. 168, page 524 and Vinson's Roadside Village, described in Vol. 171, page 91, all in the Deed Records Bosque County, Texas, and also all the Nona Benson Greer tract situated on the west side of Lakeside Village.

It is determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process it shall in no way or manner affect the organization, existence and validity of said District or the right of the District to issue bonds or refunding bonds, or in any other manner affect the legality or operation of the District.

Sec. 3. District's Powers. Except as provided in Section 4, the District shall have and exercise and is hereby vested with all of the rights, powers and privileges conferred by the General Laws of this state now in force and effect or hereinafter enacted, applicable to water control and improvement districts created under the authority of Article XVI Section 59 of the Constitution of Texas, but to the extent that the General Laws may be in conflict and inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. It shall not be necessary for the Board of Directors to call a confirmation election.

Sec. 4. Prohibiting Levying of Taxes. The District shall not have the power to levy any taxes for the maintenance and operation of its system or facilities, or for the payment of any bonds issued by the District, and the levy of taxes by said District for such purposes is hereby prohibited.

Sec. 5. Governing Body of District. The management and control of the District is hereby vested in a Board of five (5) Directors, which shall have all of the powers and authority conferred upon Board of Directors of water control and improvement districts organized under the provisions of Chapter 25, Acts of the 39th Legislature, passed in 1925, and amendments thereto, as incorporated in Title 126, Chapter 3A of Vernon's Civil Statutes of the State of Texas, and amendments thereto. Upon the effective date of this Act, the following named persons shall be and constitute the Board of Directors of said District: P. A. VINES, VERNON E. EVANS, C. B. NEWMAN, PERCY CARPENTER, and J. B. NELSON, and each of said Directors shall subscribe to the constitutional oath of office and give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000), within sixty (60) days after the effective date of this Act, the cost of which shall be paid by the District; and shall hold office until his successor has been elected and qualified. Should any of the named Directors refuse to act or for any reason shall fail to qualify as herein required, the County Judge of Bosque County shall fill such vacancy. The terms of the first two (2) named Directors shall expire on the first Tuesday in May 1964 and the terms of the last three (3) named Directors shall expire on the first Tuesday in May 1965. A regular election for the election of Directors shall be held on the first Tuesday in May of each year beginning in 1964. Two (2) Directors shall be elected in even-numbered years and three (3) in each odd-numbered year. The regular elections for Directors shall be ordered by the Board and such order shall state the time, place, and purpose of the election and the Board shall appoint the presiding judge who shall appoint an assistant judge and two (2) clerks, if needed, and such election shall be ordered at least fifteen (15) days prior to the date of said election and notice of said

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election shall be published in a newspaper of general circulation in Bosque County one (1) time at least ten (10) days before the election. All vacancies in office (other than for the failure of an original Director to qualify as hereinabove provided) shall be filled by majority vote of the remaining Directors and such appointees shall hold office for the unexpired term for which they were appointed. No Director shall be entitled to receive any fees of office as a Director but shall be entitled to receive his actual expenses incurred in attending to District's business, provided such fees and expenses are approved by the Board. Any person who is an owner of real property in the District shall be eligible to hold the office of Director of the District. The Board of Directors shall elect from its number a president and vice-president of the District, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all power conferred by this Act upon the president when the president is absent or fails or declines to act.

Sec. 6. May Issue Bonds. For the purpose of purchasing, acquiring, constructing or improving a surface or underground water supply and water distribution system or for the purpose of constructing or improving a sanitary sewer system including collecting and disposal facilities or for the purpose of carrying out any other power or authority, conferred upon the District by this Act or by the General Laws incorporated herein, or for any combination of such purposes, the District is specifically authorized to issue its negotiable bonds. Such bonds shall be secured by and payable from net operating revenues of the District or by the net revenues of any one or more contracts hereafter made or other revenues as specified in the resolution authorizing their issuance. No election shall be required to authorize the issuance of such bonds. In the resolution authorizing the issuance of bonds the Board of Directors may reserve the right under the conditions therein specified, to issue additional bonds on a parity with or subordinate to the bonds being issued. The term "net operating revenues" or "net revenues" as used herein shall be understood to include all income and increment which may grow out of the ownership and operation of the improvements or facilities of the District less such part of the District's revenue income as reasonably may be required to provide for the administration, efficient operation and adequate maintenance of such improvements and facilities.

The bonds of the District shall be authorized by resolution of the Board of Directors and may be sold under the terms and provisions of the General Laws of this state now in effect or hereafter enacted applicable to bonds issued by water control and improvement districts. Within the discretion of the Board the bonds may be callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing their issuance.

The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon and such refunding bonds may be issued to refund more than one series of outstanding bonds and combine the pledges provided for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, or in lieu thereof the resolution authorizing their issuance may provide that they may be sold and the proceeds thereof deposited in a bank where the original bonds are payable, in which case the refunding

bonds may be issued in an amount sufficient to pay the principal of and interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

All bonds of the District, including refunding bonds, and the proceedings pertaining to their authorization shall be submitted to the Attorney General of Texas, and if such bonds have been authorized in accordance with the provisions hereof, he shall approve the bonds which shall then be registered by the Comptroller of Public Accounts. Thereafter such bonds shall be valid and binding and shall be incontestable for any cause.

Sec. 7. Bonds Exempt from Taxation. The bonds issued hereunder and their transfer and the income therefrom, including the profits on the sale thereof, shall at all times be free from taxation by the state or by any municipal corporation, county, or other political subdivision or taxing district of the state.

Sec. 8. District Depository and Methods of Selecting Same. The Board of Directors shall by resolution designate one or more banks within or without Bosque County to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks, except those pledged to pay bonds, which shall be deposited with the trustee bank, or paying agent, named in the bond proceedings and to the extent provided for in such proceedings. To the extent that funds in the depository bank and the trustee bank are not insured by the F.D.I.C., they shall be secured in the manner provided by law for the security of county funds.

Sec. 9. Charges for Services. The District shall have the right to fix and collect charges, fees or tolls for the services of its water and sanitary systems and facilities, and the District shall have the right to impose penalties for failure to pay when due such charges, fees or tolls.

Sec. 10. District May Acquire Property. For the purpose of carrying out any power or authority conferred by this Act, the District shall have the right to acquire land and easements by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Directors. In the event that the District, in the exercise of the power of eminent domain or power of relocation or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line or pipeline or telephone or telegraph properties and facilities, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The power of eminent domain herein granted shall be confined to the limits of LAKESIDE WATER SUPPLY DISTRICT.

Sec. 11. District Declared Essential. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of Texas wherein it is empowered to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the state; that the District herein created is essential to the accomplishment of the purposes of said constitutional provision; and that this Act operates on a subject in which the state at large is interested. It is hereby found and determined that all of the lands and other property included within the boundaries

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of the District will be benefited thereby, and that the District is created to serve a public use and benefit and no exclusion hearing shall be required. All the terms and provisions of this Act are to be liberally construed to effectuate the purposes herein set forth.

Sec. 12. Bonds of District as Investments and Security for Public Funds. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 13. Savings Clause. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be done in such manner as will conform thereto, whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provisions of this Act shall be invalid, such fact shall not affect the creation of the District, or the validity of any other provisions of this Act, and the Legislature here declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof. Acts 1963, 58th Leg., p. 15, ch. 13.

Emergency. Effective March 7, 1963.

Art. 8280—280. Clear Lake City Water Authority

Section 1. Under and pursuant to the provisions of Article 16, Section 59, of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Clear Lake City Water Authority" hereinafter called the "Authority," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the Authority is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution of Texas.

Sec. 2. The Authority shall comprise all of the following described territory and area, all of which is situated in Harris County, Texas:

Being 12,268.85 acres of land in Harris County, Texas, consisting of all of the Thomas Earle, Jr. Survey, Abstract No. 248, the M. C. Friedenhau Survey, Abstract No. 1183, and part of the following Surveys;

- Day Land and Cattle Co., Abstract No. 1042
- Sarah Deel League, Abstract No. 13
- William Dobie $\frac{1}{4}$ League, Abstract No. 16
- David Harris League, Abstract No. 25
- Joseph A. Harris, Abstract No. 340
- Luke Hemenway, Abstract No. 800
- William M. Jones, Abstract No. 482
- James Lindsey $\frac{1}{4}$ League, Abstract No. 43
- George B. McKinstry League, Abstract No. 47
- Ritson Morris, Abstract No. 52
- Sylvester Murphy League, Abstract No. 53

Fabricus Reynolds, Abstract No. 643
 James Routh $\frac{1}{4}$ League, Abstract No. 64
 August Whitlock, Abstract No. 792
 August Whitlock, Abstract No. 794
 August Whitlock, Abstract No. 797
 Robert W. Wilson, Abstract No. 88

Said 12,268.85 acres of land also being part of a 15,246.67 acre tract of land conveyed to Friendswood Development Company by Humble Oil & Refining Company by Deed dated October 16, 1962, and recorded in Volume 4915, pages 272 through 321 of the Deed records of Harris County, Texas, and being fully described by metes and bounds as follows:

BEGINNING at Humble Monument 208 marking the northwest corner of the Sylvester Murphy League, A-53, Harris County, Texas;

THENCE S $1^{\circ} 58'$ E along the west boundary of said league 2201.7 feet to U. S. Engineer 10 x 12 inch concrete monument marking a northeast corner of Ellington Field;

THENCE S $0^{\circ} 54' 15''$ E and continuing with the west line of said Murphy League 3087.61 feet to U. S. Engineer monument marking the northwest corner of a 224.29-acre tract described in and taken by the United States of America pursuant to petition in Condemnation and Declaration of Taking in the proceedings in Cause #8881 in the U. S. District Court, Southern District of Texas;

THENCE N $55^{\circ} 31' 15''$ E along the north line of said 224.29-acre tract 3449.40 feet to a U. S. Engineer monument marking an angle point in said line;

THENCE N $43^{\circ} 51'$ E and continuing along said north line 164.91 feet to a U. S. Engineer monument marking the north corner of said 224.29-acre tract;

THENCE S $46^{\circ} 06'$ E along the northeast line of said 224.29-acre tract 1700.17 feet to a U. S. Engineer monument marking the east corner of said 224.29-acre tract;

THENCE S $43^{\circ} 53' 40''$ W along the southeast line of said 224.29-acre tract 1450.33 feet to a U. S. Engineer monument for an angle point;

THENCE S $56^{\circ} 56'$ W and continuing along the said southeast line 333.37 feet to a U. S. Engineer monument for another angle point;

THENCE S $43^{\circ} 54' 30''$ W and continuing along said southeast line 4104.82 feet to a U. S. Engineer monument in the west line of the Sylvester Murphy League, same being the south corner of the 224.29-acre tract;

THENCE S $0^{\circ} 56' 45''$ E along the west line of said Sylvester Murphy League 186.32 feet to Humble Monument 209, same marking the southwest corner of the Sylvester Murphy League and the northwest corner of the M. C. Friedenhaus Survey, A-1183;

THENCE S $1^{\circ} 00'$ E along the common boundary line between the August Whitlock Survey, A-798, and the said Friedenhaus Survey, 4060.8 feet to a U. S. Engineer 12 x 12 inch concrete monument marking the southeast corner of Ellington Field;

THENCE S $88^{\circ} 21'$ W along the south boundary line of Ellington Field 4551.3 feet to a point on the northeast right-of-way line of the G H&N Railroad;

THENCE S $39^{\circ} 32'$ E along said railroad right-of-way 1896.8 feet to Humble Monument 409, same being located in the south line of the said Whitlock Survey and the north line of the Luke Hemenway Survey, A-800;

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THENCE S 39° 16' E and continuing along said railroad right-of-way and crossing the said Hemenway Survey, August Whitlock Survey, A-792, and the August Whitlock Survey, A-797, 12,855.7 feet to Humble Monument 414, same being located in the east line of the August Whitlock Survey, A-797, and in the west line of the Joseph A. Harris Survey, A-340;

THENCE S 39° 17' E and continuing along said railroad right-of-way 2477.2 feet to Humble Monument 490 marking the east line of the said Harris Survey and the west line of the Robert W. Wilson League, A-88;

THENCE S 39° 14' 30" E and continuing along said railroad right-of-way a distance of 6268.34 feet to a point for corner. Said point for corner being located N 39° 14' 30" W, a distance of 10.00 feet from Humble Monument No. 495 marking the most southerly corner of said Friendswood Development Company 15,246.67 acre tract;

THENCE N 50° 54' E parallel to and 10 feet at right angles from a southeasterly line of said Friendswood Development Company 15,246.67 acre tract, a distance of 1196.10 feet to a point for corner;

THENCE N 39° 16' W, parallel to and 10 feet at right angles from a northeasterly line of said Friendswood Development Company 15,246.67 acre tract, a distance of 208.64 feet to a point for corner;

THENCE N 50° 48' 30" E, parallel to and 10 feet at right angles from a southeasterly line of said Friendswood Development Company 15,246.67 acre tract, a distance of 250.00 feet to a point for corner;

THENCE S 39° 16' E, a distance of 150.00 feet to a point for corner in the northeasterly line of Pine Avenue;

THENCE S 64° 52' E with the northeasterly line of said Pine Avenue a distance of 361.06 feet to a point for corner in a southeasterly line of said Friendswood Development Company 15,246.67 acre tract;

THENCE N 25° 07' E with said southeasterly line of the Friendswood Development Company 15,246.67 acre tract, passing Humble Monument No. 477 set in the common line between said Robert W. Wilson and Sarah Deel Leagues at 2014.17 feet and continuing on for a total distance of 2270.77 feet to Humble Monument No. 478 in the centerline of Cow Bayou;

THENCE along the meanders of the centerline of Cow Bayou the following courses and distances: N 78° 00' E, 150.0 feet; S 57° 05' E, 128.0 feet; S 48° 50' E, 300.0 feet; S 88° 10' E, 230.0 feet; S 50° 10' E, 360 feet; S 82° 02' 05" E, 248.32 feet to Humble Monument No. 472 in the centerline of said bayou;

THENCE S 39° 09' 30" East leaving said bayou, a distance of 549.4 feet to Humble Monument No. 473;

THENCE S 50° 41' 30" W, a distance of 326.8 feet to Humble Monument No. 474;

THENCE S 39° 04' E with a southwesterly line of said Friendswood Development Company 15,246.67 acre tract, a distance of 511.71 feet to a point for corner at its intersection with a line parallel to and 10 feet at right angles from the northwesterly right-of-way line of F. M. Highway No. 528;

THENCE N 50° 55' 25" E with said line parallel to and 10 feet at right angles from the northwesterly line of said F. M. Highway No. 528, a distance of 223.35 feet to a point for corner, the beginning of a curve to the right;

THENCE in a northeasterly direction following said curve to the right having a radius of 1530.69 feet and a central angle of 19° 07' 10", concentric to and 10.0 feet radially from the northwesterly line of said F.

M. Highway No. 528, a distance of 510.79 feet to a point for corner, the end of said curve;

THENCE N 70° 02' 35" E along a line parallel to and 10.0 feet at right angles from the northwesterly line of said F. M. Highway No. 528, crossing the centerline of Cow Bayou at 479 feet, and continuing on for a total distance of 600.19 feet to a point for corner;

THENCE S 19° 57' 25" E, a distance of 10.0 feet to a point for corner in the northwesterly line of said F. M. Highway No. 528;

THENCE N 70° 02' 35" E with the northwesterly line of said F. M. Highway No. 528, a distance of 308.19 feet to a point for corner, the beginning of a curve to the left;

THENCE in a northeasterly direction with said northwesterly line of F. M. Highway No. 528 and following said curve to the left, having a radius of 11,399.20 feet and a central angle of 2° 39' 21", a distance of 528.39 feet to a point for corner, the end of said curve;

THENCE N 67° 23' 14" E with said northwesterly line of F. M. Highway No. 528, a distance of 3.95 feet to a point for corner, the beginning of a curve to the right;

THENCE in a northeasterly direction with said northwesterly line of F. M. Highway No. 528 and following said curve to the right, having a radius of 11,547.20 feet and a central angle of 2° 40' 30", a distance of 539.11 feet to a point for corner, the end of said curve;

THENCE N 70° 03' 44" E with said northwesterly line of F. M. Highway No. 528, a distance of 863.85 feet to a point for corner at an offset in the right-of-way line of said F. M. Highway No. 528;

THENCE N 19° 56' 16" W, a distance of 36.67 feet to a point for corner;

THENCE N 70° 03' 44" E with said northwesterly line of F. M. Highway No. 528, a distance of 22.79 feet to a point for corner in southwest line of the N. A. S. A. 600 acre tract;

THENCE N 20° 00' 45" W with said southwest line of the N. A. S. A. 600 acre tract, a distance of 537.28 feet to Humble Rod No. 2035 marking a re-entrant corner of said N. A. S. A. 600 acre tract;

THENCE N 64° 54' W along another southwest line of said 600-acre tract 4061.5 feet to Humble Rod 2036 marking the west corner of the said 600-acre tract;

THENCE N 25° 10' E along the northwest line of said 600-acre tract 3214.4 feet to Humble Rod 2021 marking the north corner of the said 600-acre tract and the west corner of the NASA 1020 acre tract;

THENCE N 25° 10' E along the northwest line of said 1020-acre tract 6065.1 feet to Humble Rod 2001 marking the north corner of the said 1020-acre tract;

THENCE S 64° 54' E along a northeast line of said 1020-acre tract 5826.6 feet to Humble Rod 2025, same being a corner of the said 1020-acre tract;

THENCE S 11° 33' E along another northeast line of said 1020-acre tract 1537.8 feet to Humble Rod 2026, same being the northwest corner of the Rice University 78.52-acre tract;

THENCE S 64° 54' E along the north line of said Rice University Tract at 2265.99 feet pass Humble Rod 2024 and continuing along the same course a total distance of 2404.0 feet to the west bank of Middle Bayou;

THENCE with the meanders of the west bank of Middle Bayou as follows: N 9° 26' 47" W 513.8 feet; N 0° 18' 49" E 604.57 feet; N 66° 07' 41" W 180.50 feet; N 24° 37' 29" W 634.16 feet; N 33° 05' 10" E 462.20

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feet; N 12° 29' 08" E 1309.32 feet; N 55° 20' 53" E 600.72 feet; S 83° 52' 08" E 239.55 feet to a point on the east bank of Middle Bayou, same being the northwest corner of the Ritson Morris League, A-52, and the southwest corner of the David Harris League, A-25;

THENCE N 57° 10' 30" E along the common boundary between the said Morris and Harris Leagues, at 1064.6 feet pass Humble Monument 101 and continuing on the same course a total distance of 1421.0 feet to Humble Monument 100;

THENCE S 8° 18' 30" E 3925.6 feet to Humble Monument 128;

THENCE N 73° 30' 30" E 58.0 feet to Humble Monument 127;

THENCE N 8° 13' 30" W 918.5 feet to Humble Monument 110;

THENCE N 73° 14' 30" E 1120.1 feet to Humble Monument 109;

THENCE N 6° 10' 30" E 1035.7 feet to Humble Monument 104;

THENCE S 87° 38' 30" E, a distance of 984.8 feet to a point for corner in the west line of Kirby Road;

THENCE N 2° 58' 30" E with the west line of said Kirby Road a distance of 928.10 feet to a point for corner;

THENCE N 2° 43' 30" E with the west line of said Kirby Road a distance of 789.50 feet to a point for corner;

THENCE N 87° 07' 30" West, a distance of 890.50 feet to Humble Monument No. 103 for corner;

THENCE N 5° 50' 30" E, a distance of 1165.70 feet to Humble Monument No. 102 set in the common line between the Ritson Morris and David Harris Leagues for corner;

THENCE N 57° 10' 30" E along the common line between said Morris and Harris Leagues, a distance of 1016.61 feet to a point for corner in the West line of said Kirby Road;

THENCE N 2° 43' 30" E with the west line of said Kirby Road, a distance of 36.87 feet to an angle point in the right-of-way of said Kirby Road;

THENCE N 57° 10' 30" E with the northwesterly line of said Kirby Road, a distance of 2602.44 feet to a point for corner;

THENCE N 38° 30' E with said northwesterly line of Kirby Road, a distance of 830.17 feet to a point for corner in the southwesterly line of Red Bluff Road;

THENCE N 49° 13' 11" W with the southwesterly line of said Red Bluff Road, a distance of 20,800 feet to an angle point in said southwesterly line;

THENCE N 37° 50' W with the southwesterly line of said Red Bluff Road, a distance of 4,400 feet to a point for corner in the centerline of the Genoa-Red Bluff Road;

THENCE S 82° 10' W with the centerline of said Genoa-Red Bluff Road, a distance of 2000.00 feet to an angle point in said Road;

THENCE S 20° 10' W with the centerline of said Genoa-Red Bluff Road, a distance of 300.0 feet to an angle point in said Road;

THENCE N 89° 16' 23" W with the center line of said Genoa-Red Bluff Road, a distance of 7504.5 feet to an angle point in said Road;

THENCE S 64° 00' W with the center line of said Genoa-Red Bluff Road, a distance of 1700 feet to Humble Monument No. 235 for corner;

THENCE S 88° 34' W along the centerline of said Genoa-Red Bluff Road, a distance of 1713.0 feet to a point for corner in the west line of the said Day Land & Cattle Company Survey and the east line of the Heirs of W. H. Anthony Survey, A-1460;

THENCE S 1° 14' 30" E at 30.0 feet pass Humble Monument 304, and continuing on same course a total distance of 1428.7 feet to Humble Monument 233 in the north line of the Sylvester Murphy League.

THENCE S 88° 46' W along the north line of the said Murphy League 1979.1 feet to the place of beginning, containing 15,108.74 acres, SAVE AND EXCEPT, however, 8 tracts of land containing 3259.89 acres, described hereafter as Exceptions 1 through 8, with approximately 420 acres of Exception 3 being outside of the above described tract leaving a net acreage of 12,268.85 acres of land, more or less.

EXCEPTION 1 (53.44 ACRES)

Being the western portion of that certain 80-acre tract located in the William Dobie $\frac{1}{4}$ League A-16, which 80-acre tract is described in a deed from John Baker to J. M. Martyn et al dated March 19, 1929, and recorded in Volume 801, Page 649, of the Deed Records of Harris County, Texas, the said western portion included in this exception being more particularly described as follows:

BEGINNING at Humble Monument 308 marking the northwest corner of said 80-acre tract;

THENCE N 88° 02' 30" E along the north line of said 80-acre tract 2004.0 feet to the northeast corner of this exception, same being the northwest corner of a $13\frac{1}{2}$ -acre tract heretofore conveyed by Juanita and V. L. Heiman to Humble Oil & Refining Company by deed dated July 10, 1962, and recorded in Volume 4796, Page 98, of the Deed Records of Harris County, Texas;

THENCE S 1° 55' 17" E along the west line of said $13\frac{1}{2}$ -acre tract 945.79 feet to its southwest corner in the northern south line of said J. M. Martyn et al 80-acre tract for the southeast corner of this exception;

THENCE S 87° 57' 45" W with said northern south line of said 80-acre tract, 931.40 feet to Humble Monument 310 marking the re-entrant corner of said 80-acre tract;

THENCE S 2° 01' E with the lower east line of said 80-acre tract, 402.68 feet to Humble Monument 309 marking the lower southeast corner of said 80-acre tract;

THENCE S 88° 11' 30" W with the lower south line of said 80-acre tract 1073.3 feet to Humble Monument 307 marking the southwest corner of said tract;

THENCE N 1° 55' 15" W 1346.95 feet to the place of beginning, containing 53.44 acres.

EXCEPTION 2 (1.97 ACRES)

Being a portion of that certain 80-acre tract located in the William Dobie $\frac{1}{4}$ League, A-16, which 80-acre tract is described in a deed from John Baker to J. M. Martyn et al dated March 19, 1929, and recorded in Volume 801, Page 649, of the Deed Records of Harris County, Texas, the said portion included in this exception being more particularly described as follows:

BEGINNING in the north line of said 80-acre tract 613.36 feet S 88° 02' 30" W from Humble Monument 312 marking the northeast corner of the 80-acre tract, said beginning point being also the northeast corner of that certain $13\frac{1}{2}$ -acre tract heretofore conveyed by Juanita and V. L. Heiman to Humble Oil & Refining Company by deed dated July 10, 1962, and recorded in Volume 4796, Page 98, of the Deed Records of Harris County, Texas;

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THENCE S 1° 55' 17" E with the East line of said 13 $\frac{1}{3}$ -acre tract 944.94 feet to its southeast corner in the upper south line of said 80-acre tract, same being the southwest corner of this tract;

THENCE N 87° 57' 45" E with said upper south line 132.63 feet to the southeast corner of this tract in the west line of Exception 3 described hereafter, said corner being 482.02 feet S 87° 57' 45" W from Humble Monument 311 marking the southeast corner of said 80-acre tract;

THENCE N 6° 59' W with the west line of said exception 948.4 feet to the northeast corner of this tract in the north line of said 80-acre tract, said corner being 564.26 feet S 88° 02' 30" W from Humble Monument 312 marking the northeast corner of said 80-acre tract;

THENCE S 88° 02' 30" W with the north line of said 80-acre tract 49.1 feet to the place of beginning, containing 1.97 acres.

EXCEPTION 3 (3004.44 ACRES)

Being that certain tract of land located in the James Lindsey $\frac{1}{4}$ League, A-43, the George B. McKinstry League, A-47, the David Harris League, A-25, the James Routh $\frac{1}{4}$ League, A-64, the Sylvester Murphy League, A-53, and the William Dobie $\frac{1}{4}$ League, A-16, and being more particularly described as follows:

BEGINNING at a point in the west line of the said James Routh $\frac{1}{4}$ League 1775.0 feet N 1° 36' W from Humble Monument 424 marking the southwest corner of said Routh $\frac{1}{4}$ League;

THENCE along the following courses and distances:

Course	Bearing and Distance
1	N 87° 45' 00" W 200.0 feet
2	N 82° 00' 00" W 720.0 feet
3	N 67° 00' 00" W 390.0 feet
4	N 46° 05' 00" W 580.0 feet
5	N 27° 05' 00" W 490.0 feet
6	N 14° 45' 00" W 970.0 feet
7	N 2° 23' 00" W 1870.0 feet
8	N 32° 43' 00" W 280.0 feet
9	N 18° 22' 00" W 250.0 feet
10	N 10° 15' 00" W 880.0 feet
11	N 1° 55' 00" E 370.0 feet
12	N 6° 59' 00" W 976.9 feet
13	N 7° 17' 00" E 301.1 feet
14	N 7° 00' 00" W 700.0 feet
15	N 1° 30' 00" E 740.0 feet
16	N 14° 31' 00" E 1070.0 feet
17	N 28° 00' 00" E 3400.0 feet
18	N 52° 38' 00" E 1200.0 feet
19	N 69° 22' 00" E 1250.0 feet
20	N 85° 00' 00" E 900.0 feet
21	S 83° 15' 00" E 590.0 feet
22	S 70° 10' 00" E 1300.0 feet
23	S 63° 38' 00" E 1900.0 feet
24	S 59° 24' 00" E 940.0 feet
25	S 50° 12' 00" E 880.0 feet
26	S 42° 38' 00" E 560.0 feet
27	S 35° 19' 00" E 500.0 feet
28	S 27° 35' 00" E 1340.0 feet
29	S 21° 15' 00" E 620.0 feet

Courses	Bearing and distance
30	S 13° 26' 00" E 900.0 feet
31	S 11° 10' 00" E 850.0 feet
32	S 5° 10' 00" E 600.0 feet
33	S 2° 30' 00" W 660.0 feet
34	S 8° 12' 00" W 1568.0 feet
35	S 26° 00' 00" W 1000.0 feet
36	S 35° 45' 00" W 360.0 feet
37	S 58° 00' 00" E 240.0 feet
38	S 18° 45' 00" W 940.0 feet
39	S 31° 35' 00" W 820.0 feet
40	S 46° 50' 00" W 860.0 feet
41	S 58° 55' 00" W 1020.0 feet
42	N 14° 20' 00" W 800.0 feet
43	S 73° 46' 00" W 700.0 feet
44	S 79° 51' 00" W 1000.0 feet
45	S 83° 49' 00" W 1000.0 feet
46	S 74° 14' 00" W 1500.0 feet
47	S 81° 43' 00" W 400.0 feet
48	N 83° 10' 00" W 640.0 feet
49	N 88° 04' 14" W 796.11 feet

to the place of beginning, containing 3004.44 acres, more or less

EXCEPTION 4 (47.8 ACRES)

Being the central portion of that certain 95.03 acre tract of land located in the David Harris League, A-25, Harris County, Texas, partitioned to Joe Gossman et al, and recorded in Volume 855, Page 269, of the Deed Records of Harris County, Texas, said central portion being more particularly described as follows:

BEGINNING at Humble Monument 149 marking the southeast corner of this exception, said corner being located 1879.0 feet S 25° 03' E from Humble Monument 148 marking the northeast corner of said 95.03-acre tract;

THENCE S 64° 34' W 1907.1 feet to Humble Monument 150 marking the southwest corner of this tract in the west line of said 95.03-acre tract;

THENCE N 24° 49' W along the west line of said 95.03-acre tract 907.3 feet to a point in the center of Big Island Slough;

THENCE upstream along the meanders of the centerline of Big Island Slough the following courses and distances: N 9° 23' E 34.2 feet; N 66° 03' W 101.0 feet; N 19° 11' E 120.8 feet to a point in the center of said slough for the northwest corner of this tract, same being the southwest corner of that certain 23.7585 acres of land heretofore conveyed by Ed Q. Smith, Trustee, to Humble Oil & Refining Company by deed dated January 30, 1962, recorded in Volume 4645, Page 38, of the Deed Records of Harris County, Texas;

THENCE N 64° 56' E along the south line of said 23.7585-acre tract 1866.0 feet to a point in the east line of said 95.03-acre tract for the southeast corner of said 23.7585-acre tract, same being the northeast corner of this tract;

THENCE S 25° 03' E along the east line of said 95.03-acre tract 1086.0 feet to the place of beginning, containing 47.8 acres, more or less.

EXCEPTION 5 (56.1 ACRES)

Being all of the Martyn homestead tract of 84.3 acres located in the David Harris League, A-25, being the same land described in a deed from

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Mary A. DeNaive to James Martyn dated July 22, 1879, recorded in Volume 18, Page 768, of the Deed Records of Harris County, Texas, save and except the middle third ($\frac{1}{3}$) of said Martyn homestead tract heretofore conveyed by Juanita and V. L. Heiman to Humble Oil & Refining Company by deed dated July 10, 1962, and recorded in Volume 4796, Page 95, of the Deed Records of Harris County, Texas, the area in this exception being composed of two parcels of land more particularly described as the north third and south third, as follows:

North Third: BEGINNING at Humble Monument 141 marking the northeast corner of the said Martyn homestead tract;

THENCE S 23° 57' E along the northeast line of said homestead tract 222.2 feet to the southeast corner of this tract, same being the northeast corner of the middle third conveyed to Humble Oil & Refining Company by the above-mentioned deed;

THENCE S 63° 46' W along the north line of said middle third 5250.0 feet to a point on the east bank of Middle Bayou for the southwest corner of this tract, same being the northwest corner of the said middle third;

THENCE in a northerly direction with all of the meanders of the east bank of Middle Bayou approximately N 47° 43' W 257.0 feet to a point on said east bank for the northwest corner of said homestead tract and the northwest corner of this tract;

THENCE N 63° 57' E along the northline of said homestead tract, at 10.0 feet pass Humble monument 147R and at 5353.0 feet the place of beginning, containing 28.05 acres, more or less.

South Third: BEGINNING at Humble Monument 143 marking the southeast corner of the above-mentioned homestead tract, said beginning corner being located S 23° 57' E 699.7 feet from the beginning corner of the north third above described;

THENCE S 63° 22' W along the south line of said homestead tract, at 4874.3 feet pass Humble Monument 146R and at 4924.3 feet a point on the east bank of Middle Bayou for the southwest corner of said homestead tract and the southwest corner of this tract;

THENCE in a northerly direction with all the meanders of the east bank of Middle Bayou approximately N 0° 47' W 288.36 feet to the northwest corner of this tract, same being the southwest corner of the middle third of said homestead tract heretofore conveyed by Juanita and V. L. Heiman to Humble Oil & Refining Company by deed dated July 10, 1962, recorded in Volume 4796, Page 95, of the Deed Records of Harris County, Texas;

THENCE N 63° 34' E along the common line between the south third and middle third of said homestead tract 4810.0 feet to point for corner in the east line of said homestead tract for the northeast corner of this tract, same being the southeast corner of the above-mentioned middle third;

THENCE S 23° 57' E along the east line of said homestead tract 243.0 feet to the place of beginning, containing 28.05 acres, more or less, and said Exception 5 containing a total of 56.1 acres, more or less.

EXCEPTION 6 (1.0 ACRE)

Being that certain tract of land in the David Harris League, A-25, conveyed from William P. Harris et ux to Harris County by deed dated September 14, 1883, recorded in Volume 28, Page 194, of the Deed Records

of Harris County, Texas, said tract being more particularly described as follows:

BEGINNING at Humble Monument 143 marking the northeast corner of this tract, same being the southeast corner of above-described Exception 5 (South Third);

THENCE S 23° 57' E 208.3 feet to Humble Monument 142 marking the southeast corner of this tract;

THENCE S 63° 22' W 208.3 feet to Humble Monument 145 marking the southwest corner of this tract;

THENCE N 24° 42' W 208.1 feet to Humble Monument 144 marking the northwest corner of this tract, same being in the south line of said Exception 5 (South Third);

THENCE N 63° 22' E with the south line of said Exception 5 (South Third) 211.0 feet to the place of beginning, containing 1.0 acre.

EXCEPTION 7 (94.14 ACRES)

Being a portion of the Hermann Hospital Estate tract in the David Harris League, A-25, acquired by said estate through a certain Sheriff's Deed dated April 4, 1924, and recorded in Volume 569, Page 437, of the Deed Records of Harris County, Texas, the portion included in this exception being all of said tract lying southwest of old Red Bluff Road, said portion being more particularly described as follows:

BEGINNING at the point of intersection of the southeast line of said Hermann Hospital Estate tract with a northeast boundary line of said Friendswood Development Company 15,246.67 acre tract;

THENCE S 57° 06' W along the southeast line of the Hermann Hospital Estate tract 5521.12 feet to Humble Rod "HH-3" on the east bank of Middle Bayou for the southwest corner of this tract;

THENCE following along the meanders of the east bank of Middle Bayou the following courses and distances: N 50° 13' W 89.39 feet; N 80° W 70 feet; S 32° W 70 feet; S 40° 10' E 350 feet; S 21° 30' E 500.0 feet; S 46° 05' W 350.0 feet; S 87° 40' W 100.0 feet; N 40° 30' W 200.0 feet; N 3° 45' W 300.0 feet; and N 24° 45' 40" W 705.27 feet to Humble Rod "HH-9" on the east bank of said Middle Bayou for the northwest corner of this tract;

THENCE N 55° 50' 40" E along the northwest line of this tract 762.93 feet to Humble Rod "HH-4";

THENCE N 56° 05' 30" E continuing along said northwest line 3610.68 feet to Humble Rod "HH-1" for corner of this tract;

THENCE N 0° 54' W along the west line of this tract 1814.62 feet to the north corner of this exception in the northeast boundary line of said Friendswood Development Company 15,246.67 acre tract;

THENCE S 49° 13' 11" E with said northeast boundary line of said Friendswood Development Company 15,246.67 acre tract, 2112.2 feet to the place of beginning, containing 94.14 acres, more or less.

EXCEPTION 8 (1.0 ACRE)

Being a 1.0 acre tract out of the David Harris League, A-25, reserved for a family cemetery in that certain deed from R. F. Kellerman to Mrs. Joseph Berney et al dated August 23, 1897, recorded in Volume 131, Page

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128, of the Deed Records of Harris County, Texas, said cemetery tract being more particularly described as follows:

BEGINNING at a point for the south corner of this tract in a southeast boundary line of said Friendswood Development Company 15,246.67 acre tract, same being the southeast boundary line of the said Harris League, said beginning point being 3677.8 feet S 57° 10' 30" W from Humble Monument 132 marking the most eastern southeast corner of said Friendswood Development Company 15,246.67 acre tract;

THENCE N 32° 49' 30" W 208.7 feet to point for west corner of this tract;

THENCE N 57° 10' 30" E 208.7 feet to a point for north corner of this tract;

THENCE S 32° 49' 30" E 208.7 feet to point in the aforementioned southeast boundary line of said Friendswood Development Company 15,246.67 acre tract; for east corner of this tract;

THENCE S 57° 10' 30" W along said southeast boundary line 208.7 feet to the place of beginning, containing 1.0 acre of land.

Sec. 3. It is expressly determined and found that all of the land and other property included within the area and boundaries of the Authority will be benefited by the works and projects which are to be accomplished by the Authority pursuant to the powers herein conferred under the provisions of Article 16, Section 59, of the Constitution of Texas, and that such Authority was and is created to serve a public use and benefit.

Sec. 4. It is determined, and the Legislature hereby finds, that the boundaries of said Authority form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is found to have occurred in the field notes, it shall in no way or manner affect the organization, existence or validity of said Authority, or the right of the Authority to issue bonds or refunding bonds, or to pay the principal and interest thereon, or the right to assess, levy and collect taxes, or in any other manner affect the legality or operation of the Authority or its governing body.

Sec. 5. The Authority shall have and exercise and is hereby vested with, all of the rights, powers, privileges, authority and functions conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under the authority of Article 16, Section 59, of the Constitution of Texas, but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 6. It shall not be necessary for the Board of Directors to call a confirmation election or a hearing on the exclusion of lands and other property from the Authority, or a hearing on the adoption of a plan of taxation. The ad valorem plan of taxation shall be used by the Authority.

Sec. 7. Without limiting the generality of the grant of all rights, powers, or functions herein bestowed upon the Authority under the General Laws of the State presently in force or hereafter enacted, pertaining to water control and improvement districts, the Authority is specifically granted the right, power and authority to purchase and construct, or purchase or construct, or otherwise acquire and accomplish by any and all practical means, waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities or parts of such systems or facilities and

to make any and all necessary purchases, constructions, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water or other services, and to fix rates therefor, and the Authority may exercise any of the rights, powers and authorities granted by this Act within or without the boundaries of the Authority, and the Authority may issue its bonds for such purposes and provide and make payment therefor and for necessary expenses in connection therewith.

Sec. 8. The Authority shall have the right, power and authority to use any and all public roadways, streets, alleys or public easements within or without the boundaries of the Authority in the accomplishment of its purposes, without the necessity of securing a franchise.

Sec. 9. The Authority shall have the right, power and authority to enter into contracts with municipal corporations, political subdivisions, owners, developers or lessees of lands and property as may be necessary or appropriate to a continuing and orderly plan of development of such lands and property through the purchase, construction or installation of such facilities, works or improvements as such Authority may be otherwise authorized and empowered to do or perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, all such lands may, under such contracts, be placed in position ultimately to receive the services of such facilities, works or improvements. No election shall be required of any city or town for approval of water, sewer or drainage contracts, or any combination thereof, but such contracts may be entered into without the necessity of an election by any contracting party.

Sec. 10. All powers of the Authority shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as herein provided, and thereafter, until his successor shall be elected or appointed and qualified. No person shall be appointed or elected a Director unless he owns taxable property in the Authority and resides in the Authority. Such Directors shall subscribe to the constitutional oath of office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the Authority. Immediately after this Act becomes effective, the following named persons shall be Directors of said Authority: James T. Clinkscales, Bobby C. Dare, Thomas H. McElhinney, T. F. Pound, Jr., and William L. Winstead, all of whom reside within the State of Texas and within the area of the Authority. If any of the foregoing persons shall die, become incapacitated or otherwise not be qualified to assume their duties under this Act, the remaining Directors shall appoint his successor. The first three (3) named Directors aforementioned shall serve until the second Tuesday in January, 1964, and the last two (2) named Directors shall serve until the second Tuesday in January, 1965. An election shall be held on the second Tuesday in January of each year beginning in 1964 for the election of Directors, and three (3) Directors shall be elected in each even-numbered year and two (2) in each odd-numbered year, in accordance with the General Law applicable thereto. Any vacancy occurring in the Board of Directors shall be filled for the unexpired term by a majority of the remaining Directors. The Board of Directors shall elect from its number a president and secretary and such other officers as in the judgment of the Board are necessary. The Treasurer may be appointed by the Board and shall give bond in such amount as may be required by

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the Board, conditioned that he or it will faithfully account for all money which shall come into his or its custody as Treasurer of the Authority. The Board shall appoint all necessary engineers, attorneys, fiscal agents, managers, employees or other personnel as may be needed, and shall adopt a seal for the Authority.

Sec. 11. In the event that the Authority, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, change of grade or alteration of construction shall be accomplished at the sole expense of the Authority. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 12. The Authority is fully empowered to borrow money for its corporate purposes including the power to borrow money and accept grants, gratuities or other support from the United States of America or the State of Texas, or from any corporation or agency created or designated by the United States of America or the State of Texas, and in connection with any such loan, grant or other support, to enter into such arrangements as the Board of Directors may deem advisable. The Authority is granted full powers to authorize, execute, issue and sell bonds, whether to be supported by taxes, revenues or a combination of taxes and revenues, to evidence any indebtedness it may lawfully incur and in such connection the Board of Directors may proceed as permitted under the General Laws pertaining to the issuance of bonds by water control and improvement districts, including refunding bonds. Bonds payable solely from net revenues of the Authority's operation or from the proceeds of any contract for the Authority's services may be issued by resolution of the Board of Directors and no hearing or election therefor shall be required. All bonds issued by the Authority pursuant to the provisions of this Act shall constitute negotiable instruments within the meaning of the Negotiable Instruments Law of this State. Before any bonds shall be sold by the Authority, a certified copy of the proceedings for the issuance thereof, including the form of such bonds, together with any other information which the Attorney General of Texas may require, shall be submitted to the Attorney General, and if he shall find that such bonds have been issued in accordance with the law, he shall approve such bonds and execute a certificate of approval which shall be filed in the office of the Comptroller of Public Accounts of the State of Texas, and be recorded in a record kept for that purpose. No bonds shall be issued until the same shall have been registered by the Comptroller of Public Accounts, who shall so register the same if the Attorney General shall have filed with the Comptroller of Public Accounts his certificate approving the bonds, and the proceedings for the issuance thereof, as hereinabove provided. When bonds or the proceedings pertaining thereto recite that they are secured by a pledge of the proceeds of a contract theretofore made between the Authority and any city, district, or other user, a copy of such contract and proceedings of the contracting parties shall be submitted to the Attorney General with the bond record, and if such bonds have been duly authorized and such contracts made in compliance with law, he shall approve the bonds and contracts and the bonds shall then be registered by the Comptroller of Public Accounts. When approved as aforesaid, the

bonds and contracts shall be valid and binding and shall be incontestable for any cause.

All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees and sinking funds of cities, towns and villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons pertinent thereto.

Sec. 13. The Board of Directors shall designate one or more banks within or without the Authority to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks except that sufficient funds shall be remitted to the bank or banks of payment of principal of and interest on the outstanding bonds of the Authority and in time that such may be received by the said bank or banks of payment on or prior to the date of the maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

Sec. 14. A complete system of accounts shall be kept by the Authority and an audit of its affairs for each year shall be prepared by an independent certified public accountant, or a firm of independent certified public accountants, of recognized integrity and ability. The fiscal year of the Authority shall be from October 1 to September 30 of the following year; unless and until changed by the Board of Directors. A written report of the audit shall be delivered to each member of the Board of Directors not later than ninety (90) days after the close of each fiscal year; and a copy of such audit report shall be delivered upon request to the holder or holders of at least twenty-five per cent (25%) of the then outstanding bonds of the Authority; and at least five (5) additional copies of said audit shall be delivered to the office of the Authority, one of which shall be kept on file, and shall constitute a public record open to inspection by any interested person or persons within normal office hours. The cost of such audit shall be paid for by the Authority.

Sec. 15. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and the industries thereof, the Authority in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on its properties or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 16. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article 16 of the Constitution of the State of Texas wherein it is required to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the Authority herein created is

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essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested. All of the terms and provisions of this Act are to be liberally construed, to effectuate the purposes, powers, rights and authorities herein set forth.

Sec. 17. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the Authority shall have the power by resolution to provide an alternative procedure conformable to such Constitutions. If any provision of the Act shall be invalid such fact shall not affect the creation of the Authority or the validity of any other provision of this Act, and the Legislature hereby declares that it would have created the Authority and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions thereof. Acts 1963, 58th Leg., p. 164, ch. 101.

Emergency. Effective May 6, 1963.

Art. 8280—281. Dalby Springs Conservation District

Section 1. There is hereby created within the State of Texas, in addition to the districts into which the State has heretofore been divided, a conservation and reclamation district to be known as the "Dalby Springs Conservation District" (hereinafter called "District"), consisting of that part of the State of Texas in Bowie County described as follows:

All that certain tract or parcel of land situated about 6 miles S. 30° W. from De Kalb, Texas and out of the T. & P. Ry. Co. Survey Numbers 73, and 67, the A. J. Conn Survey, Abs. No. 535, and the H. C. Proctor Survey, and described as follows:

BEGINNING at the most Northerly, Southwest corner of the A. J. Conn Survey, in the North Boundary line of the H. C. Proctor Survey;

THENCE West with the North Boundary line of the Proctor Survey 408 varas to the Northwest corner of same;

THENCE South 912 varas to the Southwest corner of the said Proctor Survey, a stake at an old fence corner;

THENCE East with the South Boundary line of the said Proctor Survey 41 varas to the West Boundary line of old Highway No. 11, new State Highway No. 26;

THENCE with the said West Boundary line of Highway No. 26, N. 24° E. 3172 varas to the Southeast corner of a 358.47 acre tract heretofore deeded to J. C. Beckham, by deed recorded in Vol. 333, pages 318-320 of the Bowie County Deed Records, a stake in the intersection of the North Boundary line of Highway No. 26 with the North Boundary line of a road running Westerly;

THENCE with the said road, N. 45° W. 244.8 varas; N. 38° W. 136.8 varas; N. 69° W. 630 varas; N. 82°30' W.; 846.7 varas; South 87° West, 496.8 varas; and N. 66° W. 375.2 varas to the West Boundary line of Survey No. 73;

THENCE South with the West Boundary line 2020.2 varas to the Southwest corner of Survey No. 73, in the North Boundary line of the George B. Elliott Survey;

THENCE with the North Boundary line of the Elliott Survey S. 79° E. 1620.4 varas to the Northwest Corner of the A. J. Conn Survey;

THENCE South with the West Boundary line of the said Conn Survey 400 varas to the point of beginning and containing 806 acres of land, more or less.

No error or discrepancy in the foregoing field notes shall adversely affect the validity of the District granted herein, it being found and determined that all of the territory and taxable property contained within such boundaries will be benefited by the works and improvements of the District.

Sec. 2. The District shall have and exercise and is hereby vested with all the rights, powers, privileges and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59, Article XVI of the Constitution, and all amendments thereto, except as otherwise herein expressly provided; provided, however, that the District shall have no power of condemnation of property or of eminent domain outside of the geographical boundaries of Bowie County. To the extent that the provisions of any General Law applying to water control and improvement districts, or other conservation districts, conflict with this Act, the provisions of this Act shall control.

In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District.

Sec. 3. The powers herein conferred upon the District shall be exercised exclusively by a Board of five (5) Directors. The first Board of Directors shall be composed of the following resident electors in Bowie County: J. C. Dewoody, W. E. Lee, Seaby Love, Julian Cranfill, and Carlos Tidwell. Such Directors shall subscribe to the constitutional oath of office and each shall give bond in the amount of Three Thousand Dollars (\$3,000) conditioned upon the faithful performance of the duties required of him under this Act. The premium on such bond shall be paid by the District. A majority of the Board of Directors shall constitute a quorum. The Board of Directors shall have exclusive charge of all the business and affairs of the District and shall make all regulations and enter into all contracts on behalf of the District. They shall purchase all necessary machinery, materials, tools and supplies required in the construction, repair or maintenance of the improvements of the District. A Director may be employed as General Manager and at such compensation as may be fixed by the four (4) other Directors, and when so employed he shall continue to perform the duties of a Director. All elections in the District shall be ordered by the Board of Directors, and such order shall name a presiding judge of election and fix the place or places within the District at which such election shall be held. Except as otherwise provided herein, the election shall be held in accordance with the provisions of the general election laws. Returns of such elections shall be made to the Secretary of the Board of Directors, and the results thereof shall be promptly declared by the Board by an order duly entered in the minutes.

Sec. 4. The first Board of Directors shall hold office until the second Tuesday in January next after the District is formed, at which time five (5) Directors shall be elected. The three (3) Directors receiving the highest vote shall serve for two (2) years. The other two (2) Directors

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shall serve one year. At the annual election thereafter, two (2) Directors or three (3) Directors, as the case may be, shall be elected. Any qualified elector who is a bona fide resident of Texas shall be qualified to serve as a Director. All vacancies shall be filled by appointment by the remaining members of the Board of Directors for the unexpired term. In the event the number of Directors shall be reduced to less than three (3), the County Judge of Bowie County may appoint qualified electors for the unexpired term and until the successors are elected and qualify.

Sec. 5. The District shall have the power and authority conferred upon water control and improvement districts, including the control, storing, preservation and distribution of storm and flood waters, the waters of rivers and streams, for reclamation and irrigation of arid, semiarid, and other lands needing irrigation, the reclamation, drainage, conservation and development of its forests, waters and all natural resources; and including particularly the following:

(a) The control of surface waters in the District by planning, laying out, constructing, owning, maintaining, acquiring and operating a catch basin, or basins, or other appropriate devices and water lines to carry off and dispose of excesses of water or to make use of such water.

(b) Acquiring a supply of fresh water suitable for domestic and industrial uses by negotiation or purchase, or by connection with the supply system of any other municipality or body politic or corporate, or by any other practicable means, and the planning, laying out, construction, ownership, maintenance and operation of a system of water lines throughout the District for the purpose of supplying domestic and industrial users thereof in the District.

(c) The planning, laying out, construction, ownership, maintenance, acquisition and operation of a sanitary sewer system and improvements and extension thereof for the collection, distribution, processing, disposal and control of all domestic, industrial and communal waters, whether of fluids, solids or composites, and ultimate disposal through its own sanitary sewer system or by connection with a sanitary system of any other municipality or by any other practicable and lawful means.

(d) Upon appropriate resolution by the Board of Directors in the District, the District may purchase other water systems, water and sewer systems, or sewer systems and may finance the purchase of such system or systems by the issuance of revenue bonds, tax and revenue bonds, or tax bonds, in the manner and to the extent provided in this Act and in the event of such purchase, the rates to be charged for the distribution of water, the collection of sewage and other authorized charges shall be determined by the Board of Directors as elsewhere provided and such rates shall not be subject to regulation by any other municipal corporation of the State of Texas.

Sec. 6. When authorized by a majority of the qualified voters residing in the District at an election duly held for the purpose, the Board of Directors may levy a tax for the maintenance of the water and sewer system and the improvements herein authorized; and the Board of Directors shall have the power to fix rates to be paid by the users of the services to be provided, and to provide for the uniform and economical expenditure of the funds received therefrom, including the pledge of revenues for the payment of bonds of the District. The Board of Directors may from time to time revise the rates of compensation for water sold and services rendered by the District in an amount sufficient to pay the expenses of operating and maintaining the facilities of the District and to provide for:

the payment of any excess into the interest and sinking fund for the payment of any outstanding bonds.

Sec. 7. The District is authorized to acquire water appropriation permits directly from the Board of Water Engineers of the State of Texas; or from the owners of such permits, as well as from any other available source, including the purchase of water or a water supply from any person, firm, corporation or public agency. Any permit which may be transferred to the District under the terms hereof must first be approved by the Board of Water Engineers. This requirement shall not apply to the purchase or transfer of water systems as distinguished from permits.

Sec. 8. (a) For the purpose of carrying out any power or authority conferred by this Act, the District is empowered to issue its negotiable bonds to be payable from such revenues of the District as are pledged by resolution of the Board of Directors or by a trust indenture authorized by said Board.

(b) Such bonds shall be authorized by resolution of the Board of Directors and shall be issued in the name of the District, signed by the President or Vice President, attested by the Secretary, and have the seal of the District impressed thereon. They shall mature serially or otherwise in not to exceed forty (40) years and they may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, but in no event at less than ninety per cent (90%) of par value, provided that the interest cost to the District, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses do not exceed seven per cent (7%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the District, or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues specified by resolution of the Board of Directors. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the District after deduction of the amount necessary to pay the cost of maintaining and operating the District and its properties.

(e) For the purposes stated in Section 8(a) hereof, the District is also empowered to issue bonds payable from ad valorem taxes to be levied in the manner and to the extent authorized by Chapter 3-A, Title 128, Revised Civil Statutes, 1925, or to issue bonds secured both by and payable wholly or partially from ad valorem taxes. Where bonds are issued payable wholly or partially from such taxes, it shall be the duty of the Board of Directors to levy a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, but the rate of the tax for any year may be fixed after giving consideration to the money received from the pledged revenues which may be available for payment of principal and interest to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(f) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board of Directors to fix, and from time to time to revise,

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the rates of compensation for water sold and services rendered by the District which will be sufficient to pay the expense of operating and maintaining the facilities of the District and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the resolution authorizing the bonds. Where bonds payable partially from revenues are issued, it shall be the duty of the Board to fix, and from time to time to revise, the rate of compensation for water sold and services rendered by the District which will be sufficient to assure compliance with the resolution authorizing bonds.

(g) From the proceeds from the sale of the bonds, the District may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which this District is created.

(h) In the event of a default or a threatened default in the payment of principal or interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of the holders of twenty-five per cent (25%) of the outstanding bonds of the issue thus in default or threatened with default, appoint a receiver with authority to collect and receive all income of the District except taxes, employ and discharge agents and employees of the District, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the District without consent of or hindrance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of water or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds.

Sec. 9. The District is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. The provisions of this law with reference to the issuance of other bonds and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 10. Any bonds (including refunding bonds) authorized by this law, not payable wholly from ad valorem taxes, may be additionally secured by a deed of trust lien upon physical properties of the District and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee, power to sell the properties for payment of the indebtedness, power to operate the properties, and all other powers and authority for the further security of the bonds. Such deed of trust may contain any provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provision for

amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds. Any purchaser under a sale under such deed of trust shall be the owner of the water and sewer system and the other properties and facilities so purchased and shall have the right to maintain and operate the same.

Sec. 11. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by a majority vote at an election at which only the qualified voters who reside in the District and who own taxable property therein and who have duly rendered the same for taxation. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such election may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and place of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the form of the ballot, and the presiding judge for each voting place. Notice of the election shall be given by posting a substantial copy thereof in each of three (3) public places within the District for at least twenty (20) days prior to the election.

(c) The returns of the election shall be made to and canvassed by the Board of Directors of the District.

(d) The General Laws relating to elections shall be applicable to elections held under this Section of this law except as otherwise provided in this law.

Sec. 12. After any bonds are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and the city or other governmental agency or district, a copy of such contract and the proceedings of the city or other governmental agency or district authorizing such contract shall also be submitted to the Attorney General. The Attorney General shall not be authorized or required to make any other or further examination or investigation. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and this law, he shall approve the bonds and such contracts, and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 13. (a) The Board of Directors shall designate one or more banks to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust indenture, and except that funds shall be remitted to the bank of payment of principal of and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the FDIC they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting the banks to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the Board. Such notice shall be published one time

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in a newspaper published in the District and specified by the Board at least ten (10) days before the date set for receiving applications.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the District and which the Board finds have proper management and are in condition to warrant handling of District funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no application is received by the time stated in the notice or if no application is accepted, the Board shall designate some bank or banks, within or without Bowie County, upon such terms and conditions as it may find advantageous to the District.

Sec. 14. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, the State Permanent School Fund and the Teachers' Retirement Fund, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 15. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 16. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby. Acts 1963, 58th Leg., p. 410, ch. 140.

Emergency. Effective May 10, 1963.

Art. 8280—282. City of Hillsboro Water and Sewer Authority

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a conservation and reclamation district to be known as "City of Hillsboro Water and Sewer Authority," (hereinafter called "Authority") which shall be a governmental agency and a body politic and corporate.

Sec. 2. The Authority shall be in the City of Hillsboro in Hill County, Texas, and shall embrace all of the territory which is contained within the limits of the City of Hillsboro, Hill County, Texas, as same exists on the effective date of this Act.

Sec. 3. (a) All powers of the Authority shall be exercised by a Board of five (5) Directors. Each Director shall serve for his term of office as

herein provided; and thereafter until his successor shall be elected or appointed and qualified. No person shall be a Director unless he resides in and owns taxable property in the Authority. No member of a governing body of any city or town, and no employee of a city or town shall be a Director. Such Director shall subscribe to the Constitutional oath of office and each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the Authority. A majority shall constitute a quorum.

(b) Immediately after this Act becomes effective the Mayor of the City of Hillsboro shall appoint the first Board of Directors or, within his discretion, he may order the holding of an election in the Authority for the purpose of electing the first Board of Directors. If an election is ordered, notice of the election shall be published in a newspaper published in the City of Hillsboro one time at least fifteen (15) days before the election. The election order shall state the time, place and purpose of the election, and the Mayor shall appoint a presiding judge who shall appoint an assistant judge and two (2) clerks to assist in holding the election. Only qualified voters residing in the Authority who own taxable property therein shall be entitled to vote at said election. The five (5) candidates receiving the highest number of votes shall be declared elected. The returns of the election shall be made to and canvassed by the Mayor, who shall enter an order declaring the result of the election. Two (2) of the Directors thus appointed or elected shall serve until the first Tuesday in April, 1964, and three (3) shall serve until the first Tuesday in April, 1965. The Directors who shall serve for the short term and those who shall serve for the long term shall be determined by lot. Directors appointed by the Mayor shall serve until the next regular election as provided in (c) below.

(c) A regular election for the election of Directors shall be held on the first Tuesday in April of each year beginning in 1964. Two (2) Directors shall be elected in each even-numbered year and three (3) in each odd-numbered year. The regular elections shall be called by the Board of Directors. The Board shall appoint the presiding judge who shall appoint an assistant judge and at least two (2) clerks. Notice shall be given the same as is provided for the first election of Directors. The three (3) candidates receiving the highest number of votes shall serve for a period of two (2) years and the two (2) receiving the lowest number of votes shall serve for one (1) year. In the event of a tie, the candidates for the short and long term shall be determined by lot.

(d) Any candidate for Director desiring to have his name printed on the ballot may do so by a petition so requesting signed by not less than fifty (50) residents of the Authority who are qualified to vote at the election. Such petition shall be presented to the Mayor for the first election if such election is called by the Mayor as herein permitted, and to the secretary of the Board of Directors for all subsequent elections. The petition shall be presented on such date as will allow not less than twenty (20) full days between the date of presentation and the date of election.

(e) Any vacancies occurring in the Board of Directors shall be filled for the unexpired term by a majority vote of the remaining Directors.

(f) Each Director shall receive a fee of not to exceed Ten Dollars (\$10) for attending each meeting of the Board, and not to exceed Ten Dollars (\$10) per day devoted to the business of the Authority and to reimbursement for actual expenses incurred in attending to Authority business provided that such service and expense are expressly approved by the Board.

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Sec. 4. The Board of Directors shall elect from its number a president and a vice-president, and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer and the presiding officer of the Board, and shall have the same right to vote as any other Director. The vice-president shall perform all duties and exercise all power conferred by this Act upon the president when the president is absent or fails or declines to act. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board and it may combine those offices. The treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the Authority. The Board shall appoint all necessary engineers, attorneys and other employees. The Board shall adopt a seal for the Authority.

Sec. 5. The Authority is hereby empowered (a) to develop, construct or purchase dams, reservoirs, underground and other sources of water. The Authority is empowered to construct or purchase all works, plants, and other facilities necessary or useful for the purpose of providing a source of water supply and storing, processing such water and transporting and distributing it for municipal, domestic and industrial purposes. The Authority shall at all times have power to develop or purchase additional underground or other sources of water and to improve, enlarge and extend its water system. The Authority is also authorized to make contracts for the purchase of water; (b) in order to preserve and protect the purity of the waters of the state and of the Authority and conserve and reclaim said waters for beneficial use by the inhabitants of the Authority to provide all plants, works, facilities and appliances incident to or helpful or necessary to the collection, transportation, processing, disposal and control of all domestic, industrial or communal wastes, whether of fluids, solids or composites. Provided, however, that before issuing any construction bonds said District shall submit plans and specifications therefor to the Texas Water Commission (successor to State Board of Water Engineers) for approval in the manner required by Acts of the 57th Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880—139, and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 6. For the purpose of carrying out any power or authority conferred by this Act the Authority shall have the right to acquire land and easements, by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Board of Directors. In the event that the Authority, in the exercise of the power of eminent domain or power of relocation, or any other power granted herein, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, communication properties and facilities or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the Authority. Provided that the power of eminent domain shall not extend outside of the boundaries of Hill County.

Sec. 7. Any construction contract or contract for the purchase of materials, equipment or supplies requiring an expenditure of more than

Two Thousand Dollars (\$2,000) shall be made to the lowest and best bidder after publication of a notice to bidders once each week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper published in Hill County and designated by the Board of Directors. This Section, however, shall not apply to the purchase of any system or part thereof in existence at the time of such purchase.

Sec. 8. (a) For the purpose or¹ purchasing or otherwise providing works, plants, facilities or appliances necessary to the accomplishment of the purposes authorized by this Act, and for the purpose of carrying out any other power or authority conferred by this Act, the Authority is empowered to issue its negotiable bonds payable from such revenues of the Authority as are pledged by resolution of the Board of Directors, or by a trust indenture authorized by said Board. The Authority shall have no power to levy or collect taxes or assessments, or to issue any bonds or create any indebtedness payable out of taxes or assessments, and nothing in this Act or in any other Act or law shall be construed as authorizing it to do so;

¹ So in enrolled bill.

(b) Such bonds shall be authorized by resolution of the Board of Directors and shall be issued in the name of the Authority, signed by the president, attested by the secretary and have the seal of the Authority impressed thereon or a facsimile seal printed or lithographed thereon. One of the signatures thus required on the bonds may be a facsimile signature, but the other signature shall be manual. They shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the Authority, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds or in the trust indenture, and may be made registrable as to principal or as to both principal and interest. Before issuing any such bonds, the proposition for the issuance thereof shall be submitted to and authorized by the resident, qualified property tax-paying voters of the Authority. Such election shall be called and held in the manner required by Chapter 25, Acts, 39th Legislature, 1925, as amended, relating to elections for the issuance of bonds by Water Control and Improvement Districts;

(c) Bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act;

(d) The bonds may be secured by a pledge of all or part of the net revenues of the Authority, or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues and incomes specified by resolution of the Board of Directors or the trust indenture. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the Authority after deduction of the amount necessary to pay the cost of maintaining and operating the Authority and its properties;

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

(e) It shall be the duty of the Board of Directors to fix, and from time to time revise, the rates of compensation for services rendered by the Authority which will be sufficient to pay the expense of operating and maintaining the facilities of the Authority to pay the bonds as they shall mature and the interest as it accrues and to maintain the reserve and other funds as provided in the Resolution authorizing the bonds or in the trust indenture;

(f) From the proceeds from the sale of the bonds, the Authority may set aside an amount for the payment of interest expected to accrue during construction and one (1) year thereafter, and in addition thereto, a reserve interest and sinking fund, and such provision may be made in the Resolution authorizing the bonds or in the trust indenture. Proceeds from the sale of the bonds may also be used for the payment of all expenses incurred in accomplishing the purposes for which this Authority is created;

(g) In the event of a default or a threatened default in the payment of principal or interest on such bonds, any court of competent jurisdiction may, upon petition of the holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the Authority, employ and discharge agents and employees of the Authority, take charge of funds on hand and manage the affairs of the Authority without consent of or hindrance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of services of the facilities of the Authority or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as it may find necessary for the protection of the holders of the bonds. It is provided, however, that the Resolution authorizing the issuance of the bonds or the trust indenture securing their payment may specify the minimum per cent of outstanding bonds which must be held by the holders seeking the appointment of a receiver, and may otherwise qualify the right of holders to institute litigation which might affect the Authority's property or funds.

Sec. 9. The Authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues and mortgage liens. The provisions of this law with reference to the issuance of other bonds, their security and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds provided that no election shall be necessary to authorize the issuance of refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, or in lieu thereof, the Resolution authorizing their issuance may provide that they may be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 10. Any bonds (including refunding bonds) authorized by this law may be additionally secured by a mortgage lien upon physical properties of the Authority and all franchises, easements, water rights and appropriation permits, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee under the trust indenture power

to sell the properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Any purchaser under a sale under such deed of trust shall be the absolute owner of the properties and facilities so purchased and shall have the right to maintain and operate the same.

Sec. 11. The trust indenture may contain provisions prescribed by the Board of Directors for the security of the bonds and the operation and preservation of the trust estate, and may make provision for amendment or modification of the trust indenture, and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend Authority money or sell Authority property upon the approval of a registered professional engineer selected as provided therein.

Sec. 12. After any bonds are authorized by the Authority, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the Authority and any city or other governmental agency or district, a copy of such contract and the proceedings of the city or other governmental agency or district authorizing such contract shall also be submitted to the Attorney General. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and laws of the State of Texas he shall approve the bonds and such contracts, and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 13. The Authority is authorized to enter into contracts with the City of Hillsboro, in Hill County, Texas, and any person situated therein for supplying services to them. The Authority is also authorized to contract with the City of Hillsboro or others within the City of Hillsboro for the rental or leasing of, or for the operation of the water production, water supply, and water supply facilities or sanitary sewer system of such city upon such consideration as the Authority and the city may agree. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until the bonds specified therein and refunding bonds issued in lieu of such bonds are paid.

Sec. 14. (a) The Board of Directors shall designate one or more banks to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank or banks named in the trust indenture, and except that funds shall be remitted to the bank of payment for payment of principal of and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting the banks to submit applications to be designated depositories. The terms of service for depositories shall be prescribed by the Board. Such notice shall be published one (1) time in a newspaper published in the City of Hillsboro at least ten (10) days before the date set for receiving applications.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them;

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

and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the Authority and which the Board finds have proper management and are in condition to warrant handling of the Authority funds.

(d) If no application is received by the time stated in the notice or if no application is accepted, the Board shall designate some bank or banks within or without Hill County upon such terms and conditions as it may find advantageous to the Authority.

Sec. 15. All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all of the public funds of cities, towns, villages, counties, school districts or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their par value.

Sec. 16. The Legislature hereby exercises the authority conferred upon it by Section 59, Article 16 of the Constitution and declares that the agency created by this Act is essential to the accomplishment of the purposes of said Constitutional provision, including the conservation and utilization of water and the protection of the purity thereof and finds that all of the land included in said agency will be benefited thereby.

Sec. 17. The Authority shall have and exercise, and is hereby vested with all of the rights, powers and privileges conferred by the General Laws of this state now in effect or hereinafter enacted, applicable to water control and improvement districts created under authority of Section 59, Article 16 of the Constitution, but to the extent that the provisions of any General Laws may be in conflict or inconsistent with the provisions of this Act the provisions hereof shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act.

Sec. 18. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and industries, the Authority in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on its properties or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 19. It is provided, however, that the Authority shall not exercise any of the powers or authority conferred by this Act, other than the creation of a Board of Directors, as provided in Section 3 hereof, unless and until the establishment of the Authority is confirmed at an election held within the Authority. After the passage of this Act and the organization of the Board of Directors, said Board shall order an election at which there shall be submitted the question of whether the establishment of this Authority shall be confirmed. Notice of said election shall be published in a newspaper of general circulation in the Authority once each week for two (2) weeks, the first notice shall be at least fourteen (14) days prior to the date fixed for the election. The Board shall appoint a presiding judge for each voting place and each presiding judge shall be authorized to appoint

such additional assistant judges and clerks as may be necessary to assist him in holding the election. Only qualified voters who reside in the Authority and who own taxable property therein shall be qualified to vote at said election. If a majority of the votes cast in such election is in favor of confirmation, and if the Board shall so find and declare after canvassing the returns and determining the results thereof the Authority shall have and exercise all of the powers conferred by this Act.

Sec. 20. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 21. It is hereby found that notice of intention to apply for the passage of this Act has been published in the locality where the matter and things to be affected hereby are situated which notice stated the substance of this law, and was published at least thirty (30) days prior to the introduction into the Legislature of this bill in the manner provided by law, and the time, form and manner of giving said notice is hereby approved and ratified. The evidence of the foregoing was exhibited in the Legislature before the passage of this Act. Acts 1963, 58th Leg., p. 632, ch. 234.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8280—283. Sagemont Municipal Utility District of Harris County

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Harris County, Texas, to be known as "Sagemont Municipal Utility District of Harris County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at the most southerly corner of the A. M. Gentry Survey, A-292, in Harris County, Texas;

THENCE N. 45 degrees 12' W. along the southwest line of said Gentry Survey a distance of 4180.69 feet to the most westerly corner of said Gentry Survey;

THENCE N. 45 degrees 13' E. along the northwest line of said Gentry Survey a distance of 3333.33 feet to the most northerly corner of said Gentry Survey;

THENCE S. 45 degrees 12' E. along the northeast line of said Gentry Survey, same being the southwest line of the Dickinson Putnam Survey, A-638, a distance of 498.24 feet to a point for interior corner;

THENCE N. 44 degrees 48' E. a distance of 1488.89 feet to a point for corner on the southwest line of the Harry Holmes Estate 70 acre tract;

THENCE S. 45 degrees 12' E. along the southwest line of said Harry Holmes Estate 70 acre tract a distance of 1448.67 feet to a point for interior corner;

THENCE N. 44 degrees 46' E. along the southeast line of said Harry Holmes Estate 70 acre tract a distance of 1152 feet, more or less, to a point for interior corner on the southwest right-of-way line of the Houston Lighting & Power Company 150 foot right-of-way, said point being the most easterly corner of said Harry Holmes Estate 70 acre tract;

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

THENCE N. 45 degrees 13' W. along the northeast line of said Harry Holmes Estate 70 acre tract a distance of 2649 feet to a point for corner on the northwest line of said Putnam Survey;

THENCE N. 44 degrees 46' E. along the northwest line of said Putnam Survey a distance of 2642.2 feet to the most northerly corner of said Putnam Survey, said corner being on the southwest line of the G. P. Burnett Survey, A-1062;

THENCE S. 46 degrees 48' 40" E. along the northeast line of said Putnam Survey, same being the southwest line of said Burnett Survey, a distance of 30.07 feet to an angle point;

THENCE S. 89 degrees 57' 30" E. a distance of 1018.17 feet to a point for corner, said point being the northwest corner of the Pasadena Independent School District 21.0055 acre tract;

THENCE S. 0 degrees 19' 40" W. along the west line of said 21.0055 acre tract a distance of 600 feet to the southwest corner of said 21.0055 acre tract;

THENCE S. 89 degrees 56' 40" E. along the south line of said 21.0055 acre tract a distance of 1553.72 feet to a point for corner on the west line of the J. Pruitt Survey, A-628;

THENCE S. 0 degrees 03' W. along the west line of said Pruitt Survey a distance of 229.2 feet to a point for interior corner;

THENCE N. 47 degrees 41' E. along the northwest line of the James A. Marshall, Trustee, 10 acre tract a distance of 844.30 feet to a point for corner on the southwest right-of-way line of the Gulf Freeway;

THENCE S. 42 degrees 20' E. along the southwest right-of-way line of said Gulf Freeway a distance of 2017.55 feet to a beginning point of a curve;

THENCE in a southeasterly direction continuing along the southwest right-of-way line of said Gulf Freeway with a curve to the right whose radius is 5585.65 feet a distance of 227.50 feet to the end of said curve;

THENCE S. 40 degrees 01' E. continuing along the southwest right-of-way line of said Gulf Freeway a distance of 868.39 feet to a point for corner;

THENCE S. 49 degrees 59' W. a distance of 453.20 to an angle point on the north right-of-way line of the Houston Lighting & Power Company 150 foot right-of-way;

THENCE N. 89 degrees 42' 30" W. along the northerly right-of-way line of said Houston Lighting & Power Company 150 foot right-of-way a distance of 1682.07 feet to an angle point;

THENCE S. 44 degrees 47' 20" W. along the northwest right-of-way line of said Houston Lighting & Power Company 150 foot right-of-way and its projection southwesterly a distance of 5519.5 feet to an angle point on the southwest line of the Dickinson Putnam Survey, same being on the northeast line of the A. M. Gentry Survey;

THENCE S. 45 degrees 13' W. a distance of 2385.2 feet to a point for interior corner;

THENCE S. 45 degrees 12' E. a distance of 534.25 feet to a point for corner on the southeast line of said A. M. Gentry Survey;

THENCE S. 45 degrees 13' W. along the southeast line of said A. M. Gentry Survey a distance of 948.1 feet to the most southerly corner of said A. M. Gentry Survey, the PLACE OF BEGINNING and containing 856.7 acres, more or less, out of the A. M. Gentry Survey, A-292, the Dickinson Putnam Survey, A-638, the G. P. Burnett Survey, A-1062, and the J. Pruitt Survey, A-628, Harris County, Texas.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds, or tax-revenue bonds as authorized by and provided in Article 7880--90a, Vernon's Texas Civil Statutes, as amended; and it is further provided that the District shall be subject to, and have the powers granted by, Chapter 128, Acts of the 50th Legislature of Texas, Regular Session, 1947, as the same is now, or hereafter may be amended. Provided, however, that before issuing any construction bonds said District shall submit plans and specifications therefor to the Texas Water Commission (successor to State Board of Water Engineers) for approval in the manner required by Acts of the 57th Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880--139, and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880--139. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Directors shall include, but not be limited to, the right to enter into contracts on behalf of said District for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

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

Sec. 3. By way of limitation, however, it is provided that:

(a) Said District shall provide water and sanitary sewer service within the limits of its boundaries only, and said District's water and sanitary sewer rates shall not exceed an amount necessary to provide for the administration, efficient operation and adequate maintenance of the District's service facilities and to pay the interest and sinking fund requirements (including a maintenance fund, an amortization and emergency fund and reserve funds) on all District bonds payable in whole or in part from the revenues of said service facilities;

(b) The construction of the District's water, sanitary sewer and drainage facilities shall be in accordance with the applicable standards and specifications of the City of Houston, Texas, and the percentage of its expenditure of bond funds in constructing said facilities, particularly with regard to the developer's participation in the cost of such construction, shall conform to said city's established policies in such regard, and no such construction shall be started or undertaken by the District unless it has in its possession the following: a certificate of the District's engineer, who shall be a registered professional engineer under the laws of the State of Texas that, in his opinion, such construction conforms to said city's established policies; and a letter or certificate of the Director of the Department of Public Works of said City of Houston (or the successor department or agency of said Department of Public Works) that, in his opinion, such construction conforms to said city's established policies.

(c) The District's water supply shall be obtained from ground or sub-surface sources, except that said District may contract for a surface water supply with said City of Houston on mutually satisfactory terms; and

(d) The District shall not sell any of its bonds for a price less than par and accrued interest from their date or dates to the date of actual delivery thereof.

Sec. 4. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon Boards of Directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be: David Hannah, Jr., W. F. Burge, Daniel J. Allison, John T. Hannah, and Charles William Pugh. Said members shall become Directors immediately after this Act becomes effective, and said first Board of Directors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1965, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 5. Land may be added to said District in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 8. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 9. If any word, phrase, clause, sentence, paragraph, Section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby. Acts 1963, 58th Leg., p. 649, ch. 239.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8280—284. Galveston West Bay Municipal Utility District of Galveston County

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Galveston County, Texas, to be known as "Galveston West Bay Municipal Utility District of Galveston County, Texas," hereinafter referred to as the "District," and said District shall consist of: Lots 368, 369, 370, 371, 372, 373, 374, 375, 388, 389, 390, 391, 392, 393, 394, 395, 408, 409, 410, 411, 412, 413, 414, 415, 428, 429, 430, 433, 434, 435, 448, 449, 450, 453, 470 and 473, together with the intervening 50-foot roads, all in Section 1 of the Trimble and Lindsey Survey of Galveston Island, Galveston County, Texas, containing 420 acres of land, more or less, more fully described by metes and bounds as follows:

BEGINNING at the Northeast corner of said Lot 371;

THENCE Southerly, along and with the East line of said Lots 371, 370, 369 and 368, to the Southeast corner of said Lot 368;

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

THENCE Westerly, along and with the South line of said Lots 368, 375, 388, 395, 408, 415, 428, 435, and 448 (crossing, in all, four 50-foot roads), to the Southwest corner of said Lot 448;

THENCE Northerly, along and with the West line of said Lots 448 and 449, to the Northwest corner of said Lot 449;

THENCE Westerly, along and with the South line of said Lots 453, 470 and 473 (crossing one 50-foot road), to the Southwest corner of said Lot 473;

THENCE Northerly, along and with the West line of said Lot 473, to its Northwest corner;

THENCE Easterly, along and with the meanders of the North line of said Lots 473, 470, 453, 450, 433, 430, 412, 411, 392, 391, 372 and 371 (crossing, in all, five 50-foot roads), to the Northeast corner of said Lot 371, the PLACE OF BEGINNING.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the 47th Legislature of Texas, Regular Session, 1941, (Article 7930—4, Vernon's Texas Civil Statutes, 1925, as amended), including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the 52nd Legislature of Texas, Regular Session, 1951, (Article 7941c, Vernon's Texas Civil Statutes, as amended). Provided, however, that before issuing any construction bonds said District shall submit plans and specifications therefor to the Texas Water Commission (successor to the State Board of Water Engineers) for approval in the manner required by Acts of the 57th Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880—139, and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139. Said District shall also have the power to reclaim and drain its overflowed lands and other lands needing drainage. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Supervisors shall include, but not be limited to, the right to enter into District contracts for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Supervisors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted here-

under, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) Supervisors which shall have all of the powers and authority and duties conferred and imposed upon Boards of Supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be Patrick H. McKenna, Dr. Stephen R. Lewis, Joe Blackshear, Robert Burton and Alvin N. Kelso. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the County Judge of Galveston County, Texas, shall appoint his or their successors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected as provided by the General Laws for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1965, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of the General Laws relating to fresh water supply districts. It shall not be necessary that any member of the first Board of Supervisors be a resident of such District or own land therein, but the members of all subsequent Boards of Supervisors must have such qualifications.

Sec. 4. All provisions of the General Laws relating to the assessment, levy and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor and Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and further, that said Tax Assessor and Collector need not be a resident or voter of the District.

Sec. 5. Land may be added to said District not only in the manner now provided by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925, as amended, but also land may be added to such District and become a part thereof upon petition of the owner or owners thereof in the following manner: the owner or owners of the land shall file with the Board of Supervisors a petition praying that the land described be added to and become a part of said District, and said petition may describe said land by metes and bounds or by lot and block number and shall be signed and executed in the same manner provided by law for the conveyance of real estate. Such petition shall be heard and considered by the Board of Supervisors and may be granted and said land added to the District if same is considered to be to the advantage of the District. Any such petition which may be granted so adding lands to the District shall be filed for record and be recorded in the Galveston County Deed Records.

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Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and for the sinking fund of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 8. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provision; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 9. If any word, phrase, clause, sentence, paragraph, Section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby. Acts 1963, 58th Leg., p. 655, ch. 241.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8280—285. Friendswood Drainage District of Galveston County

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a Conservation and Reclamation District is hereby created and incorporated in Galveston County, Texas, to be known as "Friendswood Drainage District of Galveston County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at the intersection of the Brazoria-Galveston County Line with the Galveston-Harris County Line at Clear Creek;

THENCE in a generally easterly and southeasterly direction along the meanders of the Galveston-Harris County Line along Clear Creek to its intersection with the southeast line of the Sloan's Second Subdivision in the John Dickinson Survey (A-9);

THENCE southwestwardly along said southeast line of said Sloan's Second Subdivision to an intersection with the north line of the I. & G. N. RR Co. Survey 3 (A-614) and with the south line of said John Dickinson Survey;

THENCE westwardly with the north line of said I. & G. N. RR Co. Survey 3 and with the most easterly north line of the I. & G. N. RR Co. Survey 4 (A-608) and with the south line of said John Dickinson Survey to the southwest corner of said John Dickinson Survey, said corner being an interior corner of said I. & G. N. RR Co. Survey 4;

THENCE north with the west line of said John Dickinson Survey and with the most northerly east line of said I. & G. N. RR Co. Survey 4 to the southeast corner of the Mary Fabreau Survey (A-69);

THENCE southwesterly with the southeast line of said Mary Fabreau Survey and with a northwest line of said I. & G. N. RR Co. Survey 4 to the south corner of said Mary Fabreau Survey; being an interior corner of said I. & G. N. RR Co. Survey 4;

THENCE northwesterly with the southwest line of said Mary Fabreau Survey to an intersection with the easterly projection of the most northerly north line of the B. S. & F. Survey 5 (A-625);

THENCE westerly along said easterly projection of said north line of said B. S. & F. Survey 5 to an intersection with the easterly line of the Mary Sloan Survey (A-184), said intersection being the most northerly northwest corner of said B. S. & F. Survey No. 5 and the middle southwest corner of the B. S. & F. Survey 6 (A-645);

THENCE northerly with the easterly line of said Mary Sloan Survey and with a west line of said B. S. & F. Survey 6 to the northeast corner of said Mary Sloan Survey;

THENCE westwardly with the north line of the Mary Sloan Survey to an intersection with the southeast line of the William Henry Survey (A-84),

THENCE northeasterly with the southeast line of said William Henry Survey to an intersection with the southwest line of the A. H. Jackson Survey (A-178), said intersection being the east corner of said William Henry Survey;

THENCE northwestwardly with the southwest line of said A. H. Jackson Survey and with the northeast line of said William Henry Survey to the west corner of said A. H. Jackson Survey, said corner being the south corner of the R. Hoppel Survey (A-83);

THENCE northeasterly with the northwest line of said A. H. Jackson Survey and with the southeast line of said R. Hoppel Survey to an intersection with the southwest line of the Sarah McKissick Survey (A-151);

THENCE northwestwardly with the southwest line of said Sarah McKissick Survey or northwesterly projection thereof to an intersection with the Brazoria-Galveston County line;

THENCE northerly with said Brazoria-Galveston County Line to its intersection with the Galveston-Harris County Line at Clear Creek and the place of beginning, containing 7,814 acres, more or less.

Sec. 2. Said District shall be considered to be organized and existing for the sole purpose of the reclamation and drainage of its overflowed lands and other lands needing drainage, and to accomplish such purpose the District shall have, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas, now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict with the provisions of this Act, the provisions of

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this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without limiting the generalization of the foregoing, it is expressly provided that all said powers now or hereafter conferred by such General Laws upon fresh water supply districts for the purpose of conserving, transporting and distributing fresh water are hereby specifically conferred upon this District for the purpose of reclaiming and draining its overflowed lands and other lands needing drainage; and, in addition, said District shall be authorized to build, construct, purchase, acquire, improve, enlarge, extend, repair, maintain or replace all walls, dams, dikes, levees, embankments, canals, drains, tanks, laterals and pumps which its Board of Supervisors deems necessary or convenient to carry out the purpose of such District's creation. Provided, however, that before issuing any construction bonds said District shall submit plans and specifications therefor to the Texas Water Commission (successor to State Board of Water Engineers) for approval in the manner required by Acts of the 57th Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880—139, and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139. Said District shall have authority to act jointly with individuals, with firms, with corporations, with partnerships, with other districts, with political subdivisions of the state, with other states, with cities and towns and with the federal government in the performance and accomplishment of any of the things permitted hereunder upon such terms and conditions as may be deemed advisable by said District's Board of Supervisors. Said District shall also have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 2a. The power of eminent domain of the District shall be confined to the boundaries thereof.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) Supervisors which shall have all of the powers and authority and duties conferred and imposed upon Boards of Supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be: Cecil Brown, Jr., Elmo Brundrett, Ralph Lowe, Malcolm B. McGinnis, and Myron Worden. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated, or otherwise not qualify to assume their duties un-

der this Act, the County Judge of Galveston County, Texas, shall appoint his or their successors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected by General Laws for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1965, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of General Laws relating to fresh water supply districts.

Sec. 4. All provisions of the General Laws relative to the assessment, levy and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and, further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 5. It is hereby found and determined that all of the lands and other property included within the District are and will be benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 6. Land, contiguous to said District or otherwise, may be added to said District not only in the manner now provided by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925, as amended, but also land may be added to such District and become a part thereof upon petition of the owner or owners thereof in the following manner: the owner or owners of the land shall file with the Board of Supervisors a petition praying that the lands described be added to and become a part of said District, and said petition may describe said land by metes and bounds or by lot and block number and shall be signed and executed in the same manner provided by law for the conveyance of real estate. Such petition shall be heard and considered by the Board of Supervisors and may be granted and said land added to the District if same is considered to be to the advantage of the District. Any such petition which may be granted so adding lands to the District shall be filed for record and be recorded in the Galveston County Deed Records.

Sec. 7. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provision; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 8. If any word, phrase, clause, sentence, paragraph, Section or other part of this Act or the application thereof to any person or circumstance shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section or other part of this Act to other persons or circumstances shall not be affected thereby. Acts 1963, 58th Leg., p. 659, ch. 243.

Effective 90 days after May 24, 1963, date of adjournment.

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

Art. 8280—286. Bacliff Municipal Utility District of Galveston County

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Galveston County, Texas, to be known as "Bacliff Municipal Utility District of Galveston County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at the most northerly corner of the S. Hinton Survey, Abstract 89, being also the most easterly corner of the J. Miles Survey, Abstract 153, on the west bank of Galveston Bay, Galveston, Texas;

THENCE in a southwesterly direction along the common line of said Hinton and Miles Surveys, being also the centerline of Gordy Road, to a point in the easterly line of a railroad right-of-way;

THENCE southeasterly along said easterly line of said railroad right-of-way to a point in the South line of S. G. McClenny Survey, Abstract 154, and the north line of the Edward Payne Survey, Abstract 164;

THENCE in a southwesterly direction along the common line of the said McClenny and Payne Surveys to the most southerly corner of the S. G. McClenny Survey, Abstract 154;

THENCE in a southeasterly direction parallel to said railroad right-of-way and State Highway 146 to a point in the B. T. Masterson Survey, Abstract 642, said point being the point of intersection of this line with the projection southwesterly of the south line of the Ida S. Austin, Est., 99.89 acre tract (also being the north line, projected southwesterly, of the Houston Lighting and Power Company tract, which was formerly known as the Dr. F. G. Eidman Estate 170.43 acre tract);

THENCE in a northeasterly direction along said southeasterly projection of said south line of said Austin tract and said north line of said Houston Lighting and Power Company tract to a point in the east right-of-way line of State Highway No. 146, being a common corner of said Ida S. Austin Estate 99.89 acre tract, the Dr. F. G. Eidman Estate 170.43 acre tract and the Dr. F. G. Eidman 26.33 acre tract, said Eidman land now being owned by Houston Lighting and Power Company;

THENCE continuing in a northeasterly direction along the common line of said Houston Lighting and Power Company tract and said Ida S. Austin Estate 99.89 acre tract to the most southerly corner of the E. T. Elmendorf, et al., 60 acre tract;

THENCE continuing in a northeasterly direction along the south line of said Elmendorf tract and the south line of the Baycrest Second Addition to a point on the west bank of Galveston Bay;

THENCE in a generally northwesterly direction along said west bank of Galveston Bay and its meanders to the most northerly corner of said S. Hinton Survey and the most easterly corner of said J. Miles Survey, the place of beginning, containing 1195 acres of land, more or less, and being out of a part of said S. Hinton Survey, S. G. McClenny Survey, Edward Payne Survey, and the A. Hatch Survey, Abstract 88, all of Galveston County, Texas.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59 of Article XVI, Constitution of Texas,

but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in said Chapter, including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Article 7880—90a, Vernon's Texas Civil Statutes, as amended. Provided, however, that before issuing any construction bonds said District shall submit plans and specifications therefor to the Texas Water Commission (successor to State Board of Water Engineers) for approval in the manner required by Acts of the 57th Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880—139, and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Directors shall include, but not be limited to, the right to enter into contracts on behalf of said District for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Directors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) Directors which shall have all of the powers and authority and duties conferred and imposed upon Boards of Directors of water control and improvement districts organized under the provisions of Chapter 3A of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Directors shall be: Neal D. Ledford, Albert E. White, Jack G. Holson, J. C. Blackmon and Mrs. Tommy Waller, Jr. Said members shall become Directors immediately after this Act becomes effective, and said first Board of Directors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Directors shall die, become incapacitated or otherwise not qualify to

assume their duties under this Act, the remaining members of said Board of Directors shall appoint his or their successors. With the exception of said first Board of Directors, the Board of Directors shall be selected as provided by the General Laws for water control and improvement districts. The first election of Directors of such District shall be held on the second Tuesday in January, 1965, and in accordance with Article 7880—37, Revised Civil Statutes of Texas, 1925. Thereafter, Directors of the District shall be chosen, and elections for Directors shall be held in accordance with the provisions of the General Laws relating to water control and improvement districts.

Sec. 4. Land may be added to said District in the manner now provided by Chapter 3A, Title 128, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 5. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 6. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established water control and improvement district. The ad valorem basis or plan of taxation shall be used by said District, and it shall not be necessary for the Board of Directors to hold a hearing on the adoption of a plan of taxation.

Sec. 7. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provisions; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 8. If any word, phrase, clause, sentence, paragraph, Section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby. Acts 1963, 58th Leg., p. 663, ch. 244.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8280—287. Bayview Municipal Utility District of Galveston County

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Galveston County, Texas, to be known as "Bayview Municipal Utility District of Galveston County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at the point of intersection of the center line, projected northeasterly, of a County road known as Gordy Lane (or Road), and the South shoreline of Galveston Bay;

THENCE southwesterly along said northeasterly projection and said center line of Gordy Lane and the southwesterly projection of said center line, crossing State Highway No. 146, to the southwesterly right-of-way line of said Highway No. 146;

THENCE northwesterly along the southwesterly right-of-way line of said Highway No. 146, to its intersection with the southwesterly projection of the southeasterly line of the Isabel N. Hanson twenty-one acre tract in the Michael Muldoon Survey for a corner;

THENCE northeasterly along said southwesterly projection and said southeasterly line of said Isabel N. Hanson tract to the South shoreline of Galveston Bay for a corner;

THENCE in a generally southeasterly direction along and with the meanders of said South shoreline of Galveston Bay to its intersection with the center line, projected northeasterly, of Gordy Lane, the PLACE OF BEGINNING, said tract lying and being situated in the John Miles Survey, Nathan Fuller Survey, Rafael Vasquez Survey, and the Michael Muldoon Survey, Galveston County, Texas.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the 47th Legislature of Texas, Regular Session, 1941, (Article 7930—4, Vernon's Texas Civil Statutes, 1925, as amended), including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the 52nd Legislature of Texas, Regular Session, 1951, (Article 7941c, Vernon's Texas Civil Statutes, as amended). Provided, however, that before issuing any construction bonds said District shall submit plans and specifications therefor to the Texas Water Commission (successor to State Board of Water Engineers) for approval in the manner required by Acts of the 57th Legislature, Regu-

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lar Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880—139, and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139. Said District shall have the power to make, construct or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board of Supervisors shall include, but not be limited to, the right to enter into District contracts for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Supervisors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) Supervisors which shall have all of the powers and authority and duties conferred and imposed upon Boards of Supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be Frank H. Reading, Jr., W. C. Steed, Joe Hogan, R. T. Eaton, and K. T. McClendon. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the County Judge of Galveston County, Texas, shall appoint his or their successors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected as provided by the General Laws for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1965, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of the General Laws relating to fresh water supply districts.

Sec. 4. All provisions of the General Laws relating to the assessment, levy and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor and Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and, further, that said Tax Assessor and Collector need not be a resident or voter of the District.

Sec. 5. Land may be added to said District not only in the manner now provided by Chapter 4, Title 128, Revised Civil Statutes of Texas,

1925, as amended, but also land may be added to such District and become a part thereof upon petition of the owner or owners thereof in the following manner: the owner or owners of the land shall file with the Board of Supervisors a petition praying that the lands described be added to and become a part of said District, and said petition may describe said land by metes and bounds or by lot and block number and shall be signed and executed in the same manner provided by law for the conveyance of real estate. Such petition shall be heard and considered by the Board of Supervisors and may be granted and said land added to the District if same is considered to be to the advantage of the District. Any such petition which may be granted so adding lands to the District shall be filed for record and be recorded in the Galveston County Deed Records.

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district; provided, however, that nothing in this Act shall be construed to prevent the Board of Supervisors of said District, prior to the issuance and delivery of any bonds on the faith and credit of the District, from discontinuing from said District any of the territory included therein in the manner provided by Chapter 385, page 787, Acts of the 45th Legislature, 1937, (codified by Vernon as Article 7930—2); and said Board is hereby authorized to so discontinue any such territory.

Sec. 8. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provision; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 9. If any word, phrase, clause, sentence, paragraph, Section, or other part of this Act or the application thereof to any person or circumstance, shall ever be held by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of the Act and the application of such word, phrase, clause, sentence, paragraph, Section, or other part of this Act to other persons or circumstances shall not be affected thereby. Acts 1963, 58th Leg., p. 666, ch. 245.

Effective 90 days after May 24, 1963, date of adjournment.

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

Art. 8280—288. Harris County Water Control and Improvement District—Fondren Road

Section 1. Under and pursuant to the provisions of Article 16, Section 59, of the Constitution of Texas, a conservation and reclamation district is hereby created and established in Harris County, Texas, to be known as "Harris County Water Control and Improvement District-Fondren Road," hereinafter called the "District," which shall be a governmental agency and a body politic and corporate. The creation and establishment of the District is hereby declared to be essential to the accomplishment of the purposes of Article 16, Section 59, of the Constitution of Texas.

Sec. 2. The District shall comprise all of the territory contained within the following described area and being in Harris County, Texas:

202.8 ACRE TRACT OF LAND OUT OF THE W. J. FOX SURVEY, ABSTRACT 1616, AND THE JAMES B. MURPHY SURVEY, ABSTRACT 581, HARRIS COUNTY, TEXAS

Being a 202.8 acre tract of land, being all of the W. J. Fox Survey, Abstract 1616 and a part of the James B. Murphy Survey, Abstract 581, Harris County, Texas, being more particularly described as follows:

BEGINNING at a point for the Southeast corner of the W. J. Fox Survey and the Southwest corner of the James B. Murphy Survey for the most Southerly Southeast corner of the tract of land herein described;

THENCE West 1,431.10 feet along the South line of the W. J. Fox Survey to a point for the Southwest corner of the W. J. Fox Survey and the Southwest corner of the tract of land herein described;

THENCE North 3,733.30 feet along the West line of the W. J. Fox Survey to a point for the Northwest corner of the W. J. Fox Survey and the Northwest corner of the tract of land herein described;

THENCE East 1,431.10 feet along the North line of the W. J. Fox Survey to a point for the Northeast corner of the W. J. Fox Survey and the Northwest corner of the James B. Murphy Survey for the Northeast corner of the tract of land herein described;

THENCE South 1,898.1 feet along the East line of the W. J. Fox Survey and the West line of the James B. Murphy Survey to a point for corner, said point also being the Northwest corner of a certain 80 acre tract of land conveyed to the Jesuit Fathers of Houston, Inc. by Eleanor O'Connell and Catherine O'Connell Shanahan by Deed recorded in Volume 4567, Page 170 of the Deed Records of Harris County, Texas;

THENCE South 89° 40' East 2,623.0 feet along the North line of the above said 80 acre tract of land to a point in the West line of Fondren Road for the Northeast corner of the above said 80 acre tract of land and the most Easterly Northeast corner of the tract of land herein described;

THENCE South 0° 15' West 1,330.67 feet along the West line of Fondren Road to a point for the Southeast corner of the above said 80 acre tract of land and the most Easterly Southeast corner of the tract of land herein described;

THENCE North 89° 45' West along the South line of the above said 80 acre tract 2,617.18 feet to a point for corner in the East line of the W. J. Fox Survey and the West line of the James B. Murphy Survey, said point also being the Southwest corner of the above said 80 acre tract of land;

THENCE South 500.70 feet along the East line of the W. J. Fox Survey and the West line of the James B. Murphy Survey to the PLACE OF BEGINNING of the tract of land herein described.

Sec. 3. It is expressly determined and found that all of the land and other property included within the area and boundaries of the District (Harris County Water Control and Improvement District-Fondren Road) will be benefited by the works and projects which are to be accomplished by the District pursuant to the powers conferred by the provisions of Article XVI, Section 59, of the Constitution of Texas, and that said District was and is created to serve a public use and benefit.

Sec. 4. It is determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it shall in no way or manner affect the organization, existence and validity of said District, and the right of said District to issue bonds or refunding bonds, or to pay the principal and interest thereon, and the right to assess, levy and collect taxes, or in any manner affect the legality or operation of said District or its governing body.

Sec. 5. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the General Laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Section 59, Article XVI, of the Constitution, but to the extent that the provisions of any such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act. It shall not be necessary for the board of directors to hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District.

Sec. 6. It shall not be necessary for the board of directors to call a confirmation election or to hold a hearing on the exclusion of lands from the District.

Sec. 7. All powers of the District shall be exercised by a board of five (5) directors. Each director shall serve for his term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be appointed a director unless he resides in the State of Texas, but such directors do not have to reside within the boundaries of the District. Such directors shall subscribe to the oath of office, and each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority shall constitute a quorum. Immediately after this Act becomes effective, the following named persons shall be the directors of said District and shall constitute the board of directors of said District:

William H. Shoemaker
Marvin E. Leggett
George O. Castleberry
W. Thomas Willey
J. Brown Cutbirth, Jr.

all residing within the State of Texas. If any of the aforementioned persons shall die, become incapacitated or otherwise not be qualified to assume their duties under this Act, the remaining directors shall appoint

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his successor. Succeeding directors shall be elected or appointed as provided for in this Act. The first two (2) named directors aforementioned shall serve until the second Tuesday in January, 1964, or as herein provided, and the following three (3) named directors shall serve until the second Tuesday in January, 1965, or as herein provided. An election for the election of directors shall be held on the second Tuesday in January of each year beginning in 1964, and as herein provided. Two (2) directors shall be elected in each even-numbered year and three (3) in each odd-numbered year. The yearly elections shall be ordered by the board of directors. Any vacancy occurring in the board of directors shall be filled for the unexpired term by a majority of the remaining directors. The board of directors shall elect from its number a president and a vice-president of the District, and such other officers as in the judgment of the board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the board, and shall have the same right to vote as any other director. The vice-president shall perform all duties and exercise all power conferred by this Act upon the president when the president is absent or fails or declines to act. The board shall also appoint a secretary and a treasurer who may or may not be members of the board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the board of directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the District. The board shall appoint all necessary engineers, attorneys and other employees. The board shall adopt a seal for the District.

Sec. 8. When bonds or refunding bonds have been issued by the District and said bonds or refunding bonds have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, said bonds or refunding bonds shall be negotiable, valid, legal, and binding obligations and shall be incontestable for any cause. Provided, however, that before issuing any construction bonds said District shall submit plans and specifications therefor to the Texas Water Commission (successor to State Board of Water Engineers) for approval in the manner required by Acts of the 57th Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880—139, and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 9. The power of eminent domain of the District shall be limited to Harris County, Texas. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District.

Sec. 10. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that the Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. Acts 1963, 58th Leg., p. 670, ch. 246.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8280—289. Butterfield Water Control and Improvement District

Section 1. Under and pursuant to the provisions of Article XVI, Section 59, of the Constitution of the State of Texas, there is hereby created and incorporated in El Paso County, Texas, a conservation and reclamation district to be known as "Butterfield Water Control and Improvement District" hereinafter referred to as the "District."

Sec. 2. The District shall comprise all of the territory contained within the following described area and being in El Paso County, Texas:

Sections 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, the West $\frac{1}{2}$ of Section 20, the Northeast $\frac{1}{4}$ of Section 20, and the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 20, and all of Sections 21 and 22, all being located in Block 6 of the Public School land in El Paso County, Texas; the East $\frac{1}{2}$ of Section 12 in Block 79, Township 2, T & P Railway Surveys, in El Paso County, Texas; and, a part of the Northwest corner of Section 4, Block 78, Township 2, T & P Railway Survey, in El Paso County, Texas, described by metes and bounds as follows:

BEGINNING at the northwest corner of Section 4 of Block 78, Township 2;

THENCE East 2497.4 feet along the northerly line of said Section 4 to the northwest corner of a tract of land conveyed to W. J. Lenox by deed dated April 15, 1957, and recorded in the Deed Records of El Paso County, Texas;

THENCE South $0^{\circ} 33' 12''$ East a distance of 2012.74 feet to the northerly line of Highway U. S. 62-180;

THENCE South $81^{\circ} 20'$ West along the northerly line of said Highway, a distance of 2522.65 feet to a point in the West line of Section 4, and the East line of said Section 5 in said Block 78;

THENCE North $0^{\circ} 33' 12''$ West along the East line of said Section 5, and the West line of said Section 4, a distance of 2392.9 feet to the place of BEGINNING: said portion containing approximately 9246.29 acres.

Also included in the District, although not contiguous to the above body of land, and also lying in El Paso County, Texas, is Section 2 in Block 79, Township 2, T & P Railway Surveys, containing approximately 640 acres.

No error or discrepancy in the foregoing field notes shall adversely affect the validity of the District granted herein, it being found and determined that all of the territory and taxable property contained within such boundaries will be benefited by the works and improvements of the District.

Sec. 3. The District shall have and exercise and is hereby vested with all the rights, powers, privileges and duties conferred and imposed by the General Laws of this State now in force or hereafter enacted, applicable to water control and improvement districts created under the authority of Section 59, Article XVI, of the Texas Constitution, and all amendments thereto. To the extent that the provisions of any General Law applying to water control and improvement districts conflict with this Act, the provisions of this Act shall control. It shall, however, not be necessary for the Board of Directors to call a confirmation election or hold hearing for exclusion of lands from the District.

Sec. 4. (a) The District shall have the power and authority conferred upon water control and improvement districts under the provisions of Chapter 3A, Title 128, Vernon's Civil Statutes of Texas, including the right, power and authority to purchase and/or construct or otherwise ac-

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quire waterworks systems, sanitary sewer systems, storm sewer systems and drainage facilities or parts of such systems or facilities and to make any and all necessary purchases, constructions, improvements, extensions, additions, and repairs thereto, and to purchase and/or acquire all necessary lands, rights-of-way, easements, sites, equipment, buildings, plants, structures and facilities therefor and to operate and maintain same, and to sell water and other services.

(b) Subject to the limitations contained in Subsection (c) of this Section, the right of eminent domain is hereby expressly conferred on said District and the procedure with reference to condemnation, the assessment of and estimating of damages, payment, appeal, the entering upon the property pending appeal and other procedure prescribed in Title 52 of the Revised Civil Statutes of Texas, 1925, as heretofore or hereafter amended, shall apply to said District. In the event the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder makes necessary the taking of any property or the relocation, raising, rerouting or changing the grade, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary taking, relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the expense of the District. It is provided, however, that the expense of the District shall be strictly confined to that amount which is equal to the actual cost of the property taken or work required without enhancement thereof and after deducting the net salvage value which may be derived from any property taken.

(c) Notwithstanding any other provision of this Act, the District shall, for the purpose of carrying out any power or authority conferred by this Act, have the sole right to provide the service and acquire the land, underground water rights and easements within the boundaries of the District. It shall also have such power outside the District within the enclosure bounded by a perimeter a distance of one mile outside and surrounding the boundaries of each portion of the District, all within El Paso County, Texas, so long as the one mile perimeter is not within five (5) miles of the City Limits of the City of El Paso, Texas, as they now exist or may be extended in the future. Any development made within such enclosure by the District under its powers herein prior to the development coming within five (5) miles of the City Limits of the City of El Paso shall remain the property of the District with the sole right of service therein. The District shall not have the power of eminent domain as provided by Title 52, Revised Civil Statutes, as amended, anywhere beyond such one mile perimeter.

Sec. 5. The powers herein conferred upon the District shall be exercised exclusively by a Board of five (5) Directors. The first Board of Directors shall be composed of the following resident electors in El Paso County: Charles Opel, Berry H. Edwards, Dan R. Ponder, Charles H. Leavell and Harry W. Buckley. Such Directors shall subscribe to the constitutional oath of office and each shall make a good and sufficient bond in the amount of Five Thousand Dollars (\$5,000) conditioned upon the faithful performance of the duties required of him under this Act. After the organization of the District as herein provided and the qualification of the first Board of Directors all such bonds shall be approved by said Board of Directors and filed for record in the office of the County Clerk of El Paso County, Texas, and shall then be recorded in a record kept for that purpose in the office of the District and be filed for safekeeping in the depository of the District. The premium on all such bonds shall be paid by the District.

A majority of the Board of Directors shall constitute a quorum. The Board of Directors shall have exclusive charge of all the business and affairs of the District and shall make all regulations and enter into all contracts on behalf of the District. They shall purchase all necessary machinery, materials, tools and supplies required in the construction, repair or maintenance of the improvements of the District. A Director may be employed as General Manager and at such compensation as may be fixed by the four (4) other Directors, and when so employed he shall continue to perform the duties of a Director. All elections in the District shall be ordered by the Board of Directors, and such order shall name a presiding judge of election and fix the place or places within the District at which such election shall be held. Except as otherwise provided herein, the election shall be held in accordance with the provisions of the general election laws. Returns of such elections shall be made to the secretary of the Board of Directors, and the results thereof shall be promptly declared by an order duly entered in the minutes.

Sec. 6. The terms of the first two (2) named Directors in Section 5 of this Act shall expire on the first Tuesday in January, 1965, and the terms of the last three (3) named Directors shall expire on the first Tuesday in January, 1966. A regular election for the election of Directors shall be held on the first Tuesday in January of each year beginning in 1965. Two (2) Directors shall be elected in each odd-numbered year and three (3) in each even-numbered year. The regular elections for Directors shall be ordered by the Board and such order shall state the time, place, and purpose of the election and the Board shall appoint the presiding judge who shall appoint an assistant judge and two (2) clerks, if needed, and such election shall be ordered at least fifteen (15) days prior to the date of said election and notice of said election shall be published in a newspaper of general circulation in El Paso County one time at least ten (10) days before election. Any qualified elector who is a bona fide resident of El Paso County, Texas, shall be qualified to serve as Director. All vacancies shall be filled by appointment by remaining members of the Board of Directors for the unexpired term. In the event the number of Directors shall be reduced to less than three (3), the County Judge of El Paso County may appoint qualified electors for the unexpired term and until the successors are elected and qualify.

Sec. 7. The Board of Directors shall elect from its number a President and a Vice President, and such other officers as in the judgment of the Board are necessary. The President shall be the chief executive officer and the presiding officer of the Board, and shall have the same right to vote as any other Director. The Vice President shall perform all duties and exercise all power conferred by this Act upon the President when the President is absent or fails or declines to act. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board and it may combine those offices. The Treasurer shall give bond in such amount as may be required by the Board of Directors. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as Treasurer of the District. The Board shall appoint all necessary engineers, attorneys and other employees. The Board shall adopt a seal for the District.

Sec. 8. (a) For the purpose of carrying out any power or authority conferred by this Act, the District is empowered to issue its negotiable bonds to be payable for such revenues of the District as are pledged by resolution of the Board of Directors or by a trust indenture authorized by said Board.

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(b) Such bonds shall be authorized by resolution of the Board of Directors and shall be issued in the name of the District, signed by the President or Vice President, attested by the Secretary, and have the seal of the District impressed thereon. They shall mature serially or otherwise in not to exceed forty (40) years and they may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, but in no event at less than ninety-five per cent (95%) of their face value, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the District, or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues specified by resolution of the Board of Directors. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the District after deduction of the amount necessary to pay the cost of maintaining and operating the District and its properties.

(e) For the purposes stated in Section 8(a) hereof, the District is also empowered to issue bonds payable from ad valorem taxes to be levied in the manner and to the extent authorized by Chapter 3A, Title 128, Revised Statutes, 1925, or to issue bonds secured both by and payable wholly or partially from ad valorem taxes. Where bonds are issued payable wholly or partially from such taxes, it shall be the duty of the Board of Directors to levy a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, but the rate of the tax for any year may be fixed after giving consideration to the money received from the pledged revenues which may be available for payment of principal and interest to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(f) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board of Directors to fix, and from time to time to revise, the rates of compensation for water sold and services rendered by the District which will be sufficient to pay the expense of operating and maintaining the facilities of the District and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as provided in the resolution authorizing the bonds. Where bonds payable partially from revenues are issued, it shall be the duty of the Board to fix, and from time to time to revise, the rate of compensation for water sold and services rendered by the District which will be sufficient to assure compliance with the resolution authorizing bonds.

(g) From the proceeds from the sale of the bonds, the District may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which this District is created.

(h) In the event of a default or a threatened default in the payment of principal or interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of the holders of

twenty-five per cent (25%) of the outstanding bonds of the issue thus in default or threatened with default, appoint a receiver with authority to collect and receive all income of the District except taxes, employ and discharge agents and employees of the District, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the District without consent of or hindrance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of water or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bond.

Sec. 9. The District is authorized to issue refunding bonds for the purposes of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. The provisions of this law with reference to the issuance of other bonds and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 10. Any bonds, (including refunding bonds) authorized by this Law, not payable wholly from ad valorem taxes, may be additionally secured by a deed of trust lien upon physical properties of the District and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee, power to sell the properties for payment of the indebtedness, power to operate the properties, and all other powers and authority for the further security of the bonds. Such deed of trust may contain any provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds. Any purchaser under a sale under such deed of trust shall be the owner of the water and sewer system and the other properties and facilities so purchased and shall have the right to maintain and operate the same.

Sec. 11. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by a majority vote at an election at which only the qualified voters who reside in the District and who own taxable property therein and who have duly rendered the same for taxation. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such election may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and place of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the form of the ballot, and the presiding judge for each voting place. Notice of the election shall be given by posting a substantial copy thereof in each

of three (3) public places within the District for at least twenty (20) days prior to the election.

(c) The returns of the election shall be made to and canvassed by the Board of Directors of the District.

(d) The General Law relating to election shall be applicable to elections held under this Section of this Law except as otherwise provided in this Law.

Sec. 12. After any bonds are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and the city or other governmental agency or district, a copy of such contract and the proceedings of the city or other governmental agency or district authorizing such contract shall also be submitted to the Attorney General. The Attorney General shall not be authorized or required to make any other or further examination or investigation. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and this Law, he shall approve the bonds and such contracts, and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 13. (a) The Board of Directors shall designate one or more banks to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust indenture, and except that funds shall be remitted to the bank for payment of principal of and interest on bonds. To the extent that funds in the depository banks and the trustee bank are not insured by the FDIC they shall be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting the banks to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the Board. Such notice shall be published one time in a newspaper published in El Paso County and specified by the Board at least ten (10) days before the date set for receiving applications.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the District and which the Board finds have proper management and are in condition to warrant handling of District funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no application is received by the time stated in the notice or if no application is accepted, the Board shall designate some bank or banks, within or without El Paso County, upon such terms and conditions as it may find advantageous to the District.

Sec. 14. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, trust companies, building and loan associations, savings and loan associations, insurance companies,

fiduciaries, trustees, guardians, the State Permanent School Fund and the Teachers' Retirement Fund, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 15. The portions of Article 7880—77b, Vernon's Civil Statutes, as amended, or any other General Law, pertaining to the calling of a hearing for the determination of the dissolution of a district where a bond election has failed shall be inapplicable to this District, and this District shall continue to exist and shall have full power to function and operate regardless of the outcome of any bond election.

Sec. 16. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provision; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency and a body politic and corporate, of equal dignity with any municipal corporation.

Sec. 17. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their properties and industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 18. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby. Acts 1963, 58th Leg., p. 693, ch. 256.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 8280—290. McMullen County Water Control and Improvement District No. 2

Section 1. District Created. Under and pursuant to the provisions of Article XVI, Section 59 of the Constitution of Texas, a conservation and reclamation district is hereby created in McMullen County to be known as McMullen County Water Control and Improvement District Number Two, hereinafter referred to as the "District," which shall be a governmental agency and body politic and corporate and a municipal corporation.

Sec. 2. Territory Comprising the District. The area of the District is hereby established to comprise all territory contained within the boundaries described as follows, to wit:

BEGINNING at a point where the Rio Frio crosses the east line of McMullen County.

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THENCE south along said county line to the south line of the John Turner A-979 being also the northeast corner of the H. D. House 90 acre tract.

THENCE westerly to the southwest corner of John Turner A-979 and the northwest corner of the Thomas Adams A-951.

THENCE southerly along the line of the Micheal Hely A-6 to the southeast corner of said survey.

THENCE westerly along the south line of said Micheal Hely A-6 to the southwest corner of the M. Sheets 300 acre tract, being also the southeast corner of the J. J. Meirer 160 acre tract.

THENCE north to the northeast corner of the Robert Matula 141.6 acre tract being also the northwest corner of the Elmer House 200 acre tract.

THENCE east to the southeast corner of the John Stitz Estate 139 acre tract.

THENCE north along the east line of said John Stitz Estate 139 acre of Calliham Townsite to the Rio Frio.

THENCE east meander along the south bank of said Rio Frio to the McMullen County line and point of beginning.

It is hereby determined and found by the Legislature that the boundaries and field notes of said District form a closure, and if any mistake is made in copying the field notes in the legislative process it shall in no way or manner affect the organization, existence and validity of said District or the right of the District to issue bonds or refunding bonds or in any other manner affect the legality or operation of the District.

Sec. 3. District's Powers. The District shall have and exercise and is hereby vested with all of the rights, powers and privileges conferred by the general laws of this State now in force and effect or hereinafter enacted, applicable to water control and improvement districts created under the authority of Article XVI, Section 59 of the Constitution of Texas, but to the extent that the general laws may be in conflict and inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. It shall, however, not be necessary for the board of directors to call a confirmation election or to hold a hearing on the adoption of a plan of taxation, but the ad valorem plan of taxation shall be used by the District. The rate of the ad valorem tax shall not exceed fifty cents (50¢) per One Hundred Dollars (\$100) of valuation assessed for County and State tax purposes.

Sec. 4. Governing Body of District. The management and control of the District is hereby vested in a board of five (5) directors, which shall have all of the powers and authority conferred upon boards of directors of water control and improvement districts organized under the provisions of Chapter 25, Acts of the Thirty-ninth Legislature, passed in 1925, and amendments thereto, as incorporated in Title 128, Chapter 3A of Vernon's Civil Statutes of the State of Texas and amendments thereto. Upon the effective date of this Act, the following named persons shall be and constitute the board of directors of said District: J. L. Sparks, Henry Shenkir, W. P. Howard, J. B. Akers and Horace Wilson, and each of said directors shall subscribe to the Constitutional Oath of Office and give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000), within sixty (60) days after the effective date of this Act,

the cost of which shall be paid by the District; and shall hold office until his successor has been elected and qualified. Should any of the named directors refuse to act or for any reason fail to qualify as herein required, the County Judge of McMullen County shall fill such vacancy. The terms of the first two (2) named directors shall expire on the first Tuesday in May 1964 and the terms of the last three (3) named directors shall expire on the first Tuesday in May 1965. A regular election for the election of directors shall be held on the first Tuesday in May of each year beginning in 1964. Two (2) directors shall be elected in even numbered years and three (3) in each odd numbered year. The regular elections for directors shall be ordered by the board and such order shall state the time, place, and purpose of the election and the board shall appoint the presiding judge who shall appoint an assistant judge and two (2) clerks, if needed, and such election shall be ordered at least fifteen (15) days prior to the date of said election and notice of said election shall be published in a newspaper of general circulation in McMullen County one (1) time at least ten (10) days before the election. All vacancies in office (other than for the failure of an original director to qualify as hereinabove provided) shall be filled by majority vote of the remaining directors and such appointees shall hold office for the unexpired term for which they were appointed. Each director shall be entitled to receive the same fees of office as a director of a water control and improvement district created under the general law and shall be entitled to receive his actual expenses incurred in attending to District's business, provided such fees and expenses are approved by the board. Any person who is a resident property owning taxpaying voter of the District shall be eligible to hold the office of director of the District. The board of directors shall elect from its number a president and vice president of the District, and such other officers as in the judgment of the board are necessary. The president shall be the chief executive officer of the District and the presiding officer of the board, and shall have the same right to vote as any other director. The vice president shall perform all duties and exercise all power conferred by this Act upon the president when the president is absent or fails or declines to act.

Sec. 5. May Issue Bonds. For the purpose of acquiring or improving a water supply, and water treatment facilities, or for the purpose of constructing, improving, extending or enlarging water storage and distribution facilities, or for either or all of such purposes, the District is specifically authorized to issue its negotiable bonds. Such bonds may be secured by and payable from ad valorem taxes or net revenues of the District, or by combination of such taxes and revenues as authorized by the general law relating to water control and improvement districts. No bonds, except refunding bonds, shall be issued by the District until their issuance has been approved by a majority of the resident qualified property taxpaying voters whose property has been duly rendered for taxation, who participate in an election called for the purpose. Should any proposition so submitted be defeated, another election or elections may be called and held within the District to vote upon the same or similar proposition at such time as the board of directors may determine. Bond elections may be called by the board of directors without a petition. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum maturity thereof, the maximum interest rate, the form of the ballot and the presiding judge for each voting place. The presiding judge serving at each voting place shall appoint the necessary assistant judges and clerks for holding such election. Notice of the election shall

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be given by publishing a substantial copy of the resolution calling the election in a newspaper or newspapers of general circulation in the District once each week for two (2) consecutive weeks. The first publication shall be at least fourteen (14) days prior to the election. The returns of the election shall be made to and canvassed by the board of directors of the District. The general laws relating to elections shall be applicable to elections held under this Section of this Act, except as otherwise provided in this Act.

Except as herein otherwise prescribed, the bonds of the District shall be authorized by resolution of the board of directors and may be sold under the terms and provisions of the general laws of this State now in effect or hereafter enacted applicable to bonds issued by water control and improvement districts. Within the discretion of the board the bonds may be callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing their issuance.

All bonds of the District, including refunding bonds, and the proceedings pertaining to their authorization shall be submitted to the Attorney General of Texas, and if such bonds have been authorized in accordance with the provisions hereof, he shall approve the bonds which shall then be registered by the Comptroller of Public Accounts. Thereafter such bonds shall be valid and binding and shall be incontestable for any cause.

Sec. 6. Bonds Exempt from Taxation. The bonds issued hereunder and their transfer and the income therefrom, including the profits on the sale thereof, shall at all times be free from taxation by the State or by any municipal corporation, county, or other political subdivision or taxing district of the State.

Sec. 7. District Depository and its Selection. The board of directors shall designate one or more banks to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks, except those pledged to pay bonds, which shall be deposited with the trustee bank, or paying agent, named in the bond proceedings and to the extent provided for in such proceedings. To the extent that funds in the depository bank and the trustee bank are not insured by the F.D.I.C., they shall be secured in the manner provided by law for the security of county funds.

Sec. 8. Charges for Services. The District shall have the right to fix and collect charges, fees or tolls for the services of its water system and facilities, and the District shall have the right to impose penalties for failure to pay when due such charges, fees or tolls.

Sec. 9. District May Acquire Property. For the purpose of carrying out any power or authority conferred by this Act, the District shall have the right to acquire land and easements by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the board of directors. In the event that the District, in the exercise of the power of eminent domain or power of relocation or any other power granted hereunder, makes necessary the relocation, raising, re-routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line or pipeline or telephone or telegraph properties and facilities, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The power of eminent domain herein granted shall be confined to the limits of McMullen County.

Sec. 10. District Declared Essential. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of Texas wherein it is empowered to pass such laws as may be appropriate in the preservation and conservation of the natural resources of the State; that the District herein created is essential to the accomplishment of the purposes of said constitutional provision; and that this Act operates on a subject in which the State at large is interested. It is hereby found and determined that all of the lands and other property included within the boundaries of the District will be benefited thereby, and that the District is created to serve a public use and benefit and no exclusion hearing shall be held nor shall any land or other property be excluded from the District. All the terms and provisions of this Act are to be liberally construed to effectuate the purposes herein set forth.

Sec. 11. Bonds of District as Investments and Security for Public Funds. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 12. Saving Clause. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions, and all acts done under this Act shall be done in such manner as will conform thereto, whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the District shall have the power by resolution to provide an alternative procedure conformable with such Constitutions. If any provisions of this Act shall be invalid, such fact shall not affect the creation of the District, or the validity of any other provisions of this Act, and the Legislature here declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof. Acts 1963, 58th Leg., p. 752, ch. 286.

Emergency. Effective May 30, 1963.

Art. 8280—291. River Plantation Municipal Utility District of Montgomery County

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Montgomery County, Texas, to be known as "River Plantation Municipal Utility District of Montgomery County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

BEGINNING at a three-inch iron pipe filled with concrete on the northeasterly bank of the West San Jacinto River and marking the northwest corner of the C. B. Stewart Survey, A-476, Montgomery County, Texas, said point also being the southwest corner of the Joseph House Survey;

THENCE N. 74° 50' E. along the north line of said C. B. Stewart Survey, passing a concrete monument in the west right-of-way line of U. S. Interstate Highway 45 at 6661.50 feet and passing an iron pipe set in the east right-of-way line of the I. & G. N. Railroad at 7077.59 feet, and continuing for a total distance of 12,830.43 feet along said north line of said C. B.

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Stewart Survey to a 2½ inch iron pipe with a cap marked "N. E. C. Ollie Womack" and a point for corner;

THENCE S. 15° 12' E. 1804.28 feet along a fence line to a 2½ inch iron pipe with a cap marked "S. E. C. Ollie Womack" and a point for corner;

THENCE S. 74° 54' W. 315.11 feet along a fence line to a pine-knot stake and a point for corner;

THENCE S. 17° 00' E. 4537.30 feet along a fence line to an iron pipe in the south line of said C. B. Stewart Survey and a point for corner;

THENCE S. 75° 56' W. 4758.10 feet along the south line of the said C. B. Stewart Survey to a stake on the northeasterly bank of the West San Jacinto River;

THENCE in a generally northwesterly and westerly direction along the northeasterly and northerly bank of said West San Jacinto River a distance of 13,420 feet, more or less, to a three-inch iron pipe filled with concrete on said northeasterly bank of said West San Jacinto River and marking the northwest corner of said C. B. Stewart Survey and the southwest corner of the Joseph House Survey, the point of beginning, said tract containing 1225 acres, more or less, out of said C. B. Stewart Survey, A-476, Montgomery County, Texas.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the Forty-seventh Legislature of Texas, Regular Session, 1941, as amended (Article 7930-4, Vernon's Texas Civil Statutes), including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the Fifty-second Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes). Provided, however, that before issuing any construction bonds said District shall submit plans and specifications therefor to the Texas Water Commission (successor to State Board of Water Engineers) for approval in the manner required by Acts of the Fifty-seventh Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880-139, and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880-139. Said District shall also have the power to reclaim and drain its overflowed lands and other lands needing drainage. Said District shall have the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws; provided, however, that the exercise of the power of eminent domain shall not extend beyond the boundaries of the District. The powers of its Board

of Supervisors shall include, but not be limited to, the right to enter into District contracts for the purchase and sale, or either, of water for such periods of time, not exceeding forty (40) years, and on such terms and conditions as its Board of Supervisors may deem desirable. In the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be J. W. Dinkins, A. K. Stewart, E. Davis Hailey, Charles Devereaux, and Glenn McClelland. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated or otherwise not qualify to assume their duties under this Act, the County Judge of Montgomery County, Texas, shall appoint his or their successors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected as provided by the General Laws for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1965, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of the General Laws relating to fresh water supply districts. It shall not be necessary that any member of the first Board of Supervisors be a resident of such District or own land therein, but the members of all subsequent Boards of Supervisors must have such qualifications.

Sec. 4. All provisions of the General Laws relating to the assessment, levy, and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor and Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and, further, that said Tax Assessor and Collector need not be a resident or voter of the District.

Sec. 5. Land may be added to said District not only in the manner now provided by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925, as amended, but also land may be added to such District and become a part thereof upon petition of the owner or owners thereof in the following manner: the owner or owners of the land shall file with the Board of Supervisors a petition praying that the lands described be added to and become a part of said District, and said petition may describe said land by metes and bounds or by lot and block number and shall be signed and executed in the same manner provided by law for the conveyance of real estate. Such petition shall be heard and considered by the Board of Supervisors and

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may be granted and said land added to the District if same is considered to be to the advantage of the District. Any such petition which may be granted so adding lands to the District shall be filed for record and be recorded in the Montgomery County Deed Records.

Sec. 6. The bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas.

Sec. 7. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 8. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provision; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Acts 1963, 58th Leg., p. 786, ch. 304.

Art. 8280—292. Orange County Drainage District of Orange County

Section 1. That, under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, there is hereby created within the State of Texas, in addition to the districts into which the State has heretofore been divided, a conservation and reclamation district to be known as "Orange County Drainage District of Orange County, Texas" (hereinafter referred to as the "District"), which District shall include all the property and territory situated within Orange County, Texas, the boundaries of said District to be coterminous with the boundaries of said County. Said District is hereby created for the purpose of reclamation and drainage of its overflowed lands and other lands needing drainage. Said District shall be a governmental agency and body politic and corporate, with the powers of government and with the authority to exercise the rights, privileges and functions hereinafter specified and prescribed, the creation and establishment of said District being essential to the accomplishment of the purposes of Section 59 of Article XVI, Constitution of Texas.

Sec. 2. The management and control of said District is hereby and shall be vested in a Board of Directors, which Board shall be composed of five (5) persons. One member shall be a resident of and own taxable property in Drainage Precinct No. 1 (said member to be known as "Director, Position No. 1"); one member shall be a resident of and own taxable property in Drainage Precinct No. 2 (said member to be known as "Director, Position No. 2"); one member shall be a resident of and own taxable property in Drainage Precinct No. 3 (said member to be known as "Director, Position No. 3"); one member shall be a resident of and own taxable property in Drainage Precinct No. 4 (said member to be known as "Director, Position No. 4"); and one member shall be a resident of and own taxable property in the District at large (said member to be known as "Director, Position No. 5"). Said Drainage Precincts are hereinafter described.

Within sixty (60) days from the effective date of this Act, the Commissioners Court of Orange County, Texas, shall order an election in the District for the election of the members of the first Board of Directors, which election shall be held on a date that is not more than sixty (60) nor less than forty (40) days from the date of the order calling the election, and the regular election precincts for elections in Orange County, Texas, shall be the election precincts for this election; and it is hereby found that none of said County election precincts overlap or cross the boundaries of the Drainage Precincts of said District. In the order calling the election, the Commissioners Court shall appoint officers to hold the same for each election precinct, and shall designate the polling places. Notice of such election shall be published on the same day in each of two (2) consecutive weeks in a newspaper of general circulation within the District, the first of which publications shall be at least fourteen (14) days prior to the date of the election, and such notice shall state the purpose of the election, the polling places, and the date of the election. No other notice of election need be given. Any person possessing the qualifications mentioned above for Director of a particular Position may secure a place on the ballot for Director of such Position by filing an application in writing with the County Clerk at any time after the adoption of the election order by the Commissioners Court but not less than thirty (30) days prior to the date of the election. Returns of said election shall be made to the Commissioners Court, who shall canvass the returns and declare the results thereof. Any candidate receiving a majority of the votes cast at said election for a particular Position shall be elected. If with respect to any Position, no candidate receives a majority of the votes cast at said election for such Position, then said Commissioners Court shall immediately order a runoff election, and the names of the two (2) candidates who received the greatest number of votes cast at the first election for such Position shall be placed on the ballot of such runoff election. Returns of said runoff election shall be made to the Commissioners Court, who shall canvass the returns and declare the results thereof. The candidate receiving the greatest number of votes cast at said runoff election for such Position shall be elected. Such runoff election shall be held on a date that is within thirty (30) days from the date of the order calling such election, and the regular election precincts for elections in Orange County, Texas, shall be the election precincts for this election. In the order calling the runoff election, the Commissioners Court shall appoint officers to hold the same for each election precinct, and shall designate the polling places. Notice of such runoff election shall be given as is provided above for the first election. The members of the first Board of Directors shall hold office until January 1, 1965. On the first Tuesday after the first Monday in November, 1964, there shall be an election in the District for the election of the successors of the members of the first Board of Directors, the Directors of Positions Nos. 2 and 4 to be elected for a term of office ending on the first day of January, 1966, and the Directors of Positions Nos. 1, 3, and 5 to be elected for a term of office ending on the first day of January, 1967 (the terms of office of all such Directors to commence on January 1, 1965). On the first Tuesday after the first Monday in November, 1965, and on the first Tuesday after the first Monday in November in each year thereafter, there shall be an election for the election of the successors of the Directors of the particular Positions whose term of office expire on January 1st following such election; and, except for the members of the first Board of Directors and the Directors of Positions Nos. 2 and 4 elected in 1964, the term of office of all Directors shall be for two (2) years, three (3) being elected one year and two (2) being elected in the following year in continuing sequence (the election each year being held on the first Tuesday after the first Monday in November, and

the term of office of the newly elected Directors to commence on January 1st following such election). If with respect to any Position, no candidate receives a majority of the votes cast at any such election (including the election to be held on the first Tuesday after the first Monday in November, 1964, and all subsequent elections held on the first Tuesday after the first Monday in November of each year) for such Position, a runoff election shall be held on the fourth Tuesday after the first Monday in November of such year, as hereinafter more specifically provided.

Except for the election to be ordered by the Commissioners Court of Orange County, Texas, for the election of the members of the first Board of Directors (and the runoff election to be ordered by said Commissioners Court, if necessary), as above provided, the Board of Directors shall provide for the holding of all elections, and shall at the time of ordering an election appoint officers to hold the same, consisting of a presiding judge, an assistant judge, and such clerks as may be deemed by said Board to be necessary for each election precinct, and shall designate the polling places, and shall provide for notice to be given of such election. The notice shall state the purpose of the election, the polling places, and the date of the election. Such notice shall be published on the same day in each of two (2) consecutive weeks in a newspaper of general circulation within the District, the first of which publications shall be at least fourteen (14) days prior to the date of the election. No other notice need be given. The general election laws of the State of Texas shall apply to all elections in the District except where in conflict or inconsistent with the provisions of this Act, in which event or events the provisions of this Act shall govern and prevail.

In all elections for Directors (including the first election and the runoff election, if required, for the members of the first Board of Directors), only qualified voters residing in Drainage Precinct No. 1 shall be entitled to vote for Director, Position No. 1; only qualified voters residing in Drainage Precinct No. 2 shall be entitled to vote for Director, Position No. 2; only qualified voters residing in Drainage Precinct No. 3 shall be entitled to vote for Director, Position No. 3; only qualified voters residing in Drainage Precinct No. 4 shall be entitled to vote for Director, Position No. 4; and all qualified voters residing in the District shall be entitled to vote for Director, Position No. 5. As to the election to be held on the first Tuesday after the first Monday in November, 1964, and as to each election held at such time in each subsequent year, any candidate receiving a majority of the votes cast at said election for a particular Position shall be elected. If with respect to any Position in any such election, no candidate receives a majority of the votes cast at said election for such Position, a runoff election shall be held on the fourth Tuesday after the first Monday in November of such year, and the names of the two (2) candidates who received the greatest number of votes for such Position at the election held on the first Tuesday after the first Monday in November of such year, shall be placed on the ballot of such runoff election. The candidate receiving the greatest number of votes cast at the runoff election for such Position shall be elected. In all elections held on the first Tuesday after the first Monday in November of 1964 and of subsequent years, any person possessing the qualifications mentioned above for Director of a particular Position, may secure a place on the ballot for Director of such Position by filing an application in writing with the Secretary of the Board of Directors at least thirty (30) days prior to the date of the election.

Except for the first election and, if required, the runoff election, to be ordered by the Commissioners Court for the election of the members of the

first Board of Directors, as hereinabove provided, returns of all such elections shall be made to the Board of Directors, who shall canvass the returns and declare the results thereof. Each Director shall take and subscribe an oath of office with conditions therein as provided by law for members of the Commissioners Court, and shall enter into a good and sufficient bond in the sum of Five Thousand Dollars (\$5,000) payable to the District, conditioned upon the faithful performance of his (or her) duties as Director. The premium for all official bonds may be paid by the District. The bonds of the members of the first Board of Directors shall be approved by the County Judge of Orange County, Texas, and the bonds of all Directors thereafter elected (or appointed to fill unexpired terms) shall be approved by the Board of Directors. All officers, agents, and employees of the District who shall be charged with the collection, custody, or payment of any funds of the District shall give bond conditioned on the faithful performance of their duties and a true accounting of all funds and property of the District coming into their hands, respectively, each of which bonds shall be in the form and amount and with a surety (which shall be a surety company authorized to do business in the State of Texas) approved by the Board of Directors, and the premiums of such bonds shall be paid by the District.

As to all elections held under the provisions of this Act (Director elections, maintenance tax elections, and bond elections, any or all), the regular election precincts for elections in Orange County, Texas, shall be the election precincts for District elections so long as said regular County election precincts do not overlap or cross the boundaries of the Drainage Precincts of the District; provided, that if any of said regular County election precincts hereafter overlap or cross the boundaries of said Drainage Precincts, then the Board of Directors shall by order or resolution create and define election precincts for District elections, and such District election precincts shall be so created and defined so that the same do not overlap or cross the boundaries of said Drainage Precincts.

The boundaries of Drainage Precincts Nos. 1 to 4, both inclusive, shall be, and are, the following, respectively:

BOUNDARIES OF DRAINAGE PRECINCT NO. 1

BEGINNING at a point on the easterly boundary line of Orange County, Texas, where the center line of the T. & N. O. R. R. right-of-way intersects said boundary line;

THENCE in a general westerly, southerly, and westerly direction with the center line of said T. & N. O. R. R. right-of-way to the point of intersection of said center line with a line projected southwesterly and in a straight line from the southeast corner of the Jno. S. Norris Survey, A-254, to the northwest corner of the D. W. Stakes Survey, A-283;

THENCE southwesterly along said projected line to the northwest corner of said Stakes Survey;

THENCE easterly along the northerly line of said Stakes Survey to its northeast corner;

THENCE south along the east line of said Stakes Survey to its southeast corner, same being in the north line of the Stephen Jett Survey, A-16;

THENCE east along the north line of said Jett Survey to its intersection with the west right-of-way line of Foreman Road;

THENCE south along the west right-of-way line of Foreman Road to its intersection with the southerly right-of-way line of Farm-to-Market Road No. 1906;

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THENCE northeasterly along the southerly right-of-way line of Farm-to-Market Road No. 1006 to its intersection with the westerly line of the E. I. du Pont de Nemours & Co. property in said Jett Survey;

THENCE southeasterly along the westerly line of said du Pont property to a corner;

THENCE southeasterly along another westerly line of said du Pont property to the most southerly corner of said du Pont property, and continuing in the same direction to the easterly boundary line of Orange County in the Sabine River;

THENCE in a general northeasterly and northerly direction with the easterly boundary line of Orange County, with its meanders, to a point in the same where the center line of the T. & N. O. R. R. right-of-way intersects said boundary line, and being the POINT OF BEGINNING.

BOUNDARIES OF DRAINAGE PRECINCT NO. 2

BEGINNING at a point on the north boundary line of Orange County, Texas, at the northwest corner of the John W. Maxcy Survey, A-425;

THENCE south along the west line of said Maxcy Survey to its southwest corner, same being in the north line of the T. & N. O. R. R. Co. Survey No. 29;

THENCE east along the north line of said Survey No. 29 to its northeast corner;

THENCE south along the east line of said Survey No. 29 to its southeast corner, same being in the north line of the T. & N. O. R. R. Co. Survey No. 19;

THENCE east along the north line of said Survey No. 19 to its northeast corner;

THENCE south along the east line of said Survey No. 19 to its southeast corner, same being in the north line of the T. & N. O. R. R. Co. Survey No. 11;

THENCE west along the north line of said Survey No. 11 to its northwest corner;

THENCE south along the west line of said Survey No. 11 to its southwest corner;

THENCE east along the south line of said Survey No. 11 to a point in said line which is the northwest corner of the John Young Survey, A-219, and continuing east along the north line of said Young Survey to its northeast corner;

THENCE south along the east line of said Young Survey to its southeast corner, same being in the north line of the Caleb Linscomb Survey, A-130;

THENCE east along the north line of said Linscomb Survey to its northeast corner;

THENCE south along the east line of said Linscomb Survey to a point in said line which is due west of the northwest corner of the Alford Peveto Survey, A-158;

THENCE due east to the northwest corner of the Peveto Survey and continuing east along the north line of said Survey to its northeast corner;

THENCE south along the east line of said Peveto Survey to its southeast corner;

THENCE due east to the west line of the Gustave Frederick Survey, A-85;

THENCE south along the west line of said Frederick Survey, A-85, to its southwest corner;

THENCE south and in a straight line to the northwest corner of the John Frederick Survey, A-78;

THENCE east along the north line of said Frederick Survey, A-78, to its northeast corner, same being in the west line of the Wm. Clark Survey, A-4;

THENCE south along the west line of said Clark Survey to its southwest corner;

THENCE east along the south line of said Clark Survey to a point in said line which is due north of the northeast corner of the Samuel M. Parrish Hrs. Survey, A-238;

THENCE due south to the northeast corner of said Parrish Survey, and continuing south along the east line of said Parrish Survey to its southeast corner, same being in the north line of the Claiborne West Survey, A-27;

THENCE east along the north line of said West Survey to its northeast corner;

THENCE south along the east line of said West Survey to a point in said line which is the southern northwest corner of the Jno. S. Norris Survey, A-254;

THENCE east along the southern north line of said Norris Survey and continuing east along a projection of said southern north line to a point in the east line of said Norris Survey;

THENCE south along the east line of said Norris Survey to its southeast corner, same being in the north line of the Anthony Harris Survey, A-13;

THENCE southwesterly and in a straight line on the following line: a line from the southeast corner of said Norris Survey, A-254, to the northwest corner of the D. W. Stakes Survey, A-283, to the point of intersection of said line with the center line of the T. & N. O. R. R. right-of-way;

THENCE in a general easterly, northerly, and easterly direction with the center line of said T. & N. O. R. R. right-of-way to the easterly boundary line of Orange County in the Sabine River;

THENCE in a general northerly direction with the easterly boundary line of Orange County, with its meanders, to the north boundary line of said County;

THENCE west with the north boundary line of Orange County to the northwest corner of the John W. Maxcy Survey, A-425, being the POINT OF BEGINNING.

BOUNDARIES OF DRAINAGE PRECINCT NO. 3

BEGINNING at a point on the north boundary line of Orange County, Texas, at the northwest corner of the John W. Maxcy Survey, A-425;

THENCE south along the west line of said Maxcy Survey to its southwest corner, same being in the north line of the T. & N. O. R. R. Co. Survey No. 29;

THENCE east along the north line of said Survey No. 29 to its northeast corner;

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THENCE south along the east line of said Survey No. 29 to its southeast corner, same being in the north line of the T. & N. O. R. R. Co. Survey No. 19;

THENCE east along the north line of said Survey No. 19 to its northeast corner;

THENCE south along the east line of said Survey No. 19 to its southeast corner, same being in the north line of the T. & N. O. R. R. Co. Survey No. 11;

THENCE west along the north line of said Survey No. 11 to its northwest corner;

THENCE south along the west line of said Survey No. 11 to its southwest corner;

THENCE east along the south line of said Survey No. 11 to a point in said line which is the northwest corner of the John Young Survey, A-219, and continuing east along the north line of said Young Survey to its northeast corner;

THENCE south along the east line of said Young Survey to its southeast corner, same being in the north line of the Caleb Linscomb Survey, A-130;

THENCE east along the north line of said Linscomb Survey to its northeast corner;

THENCE south along the east line of said Linscomb Survey to a point in said line which is due west of the northwest corner of the Alford Peveto Survey, A-158;

THENCE due east to the northwest corner of the Peveto Survey and continuing east along the north line of said Survey to its northeast corner;

THENCE south along the east line of said Peveto Survey to its southeast corner;

THENCE due east to the west line of the Gustave Frederick Survey, A-85;

THENCE south along the west line of said Frederick Survey, A-85, to its southwest corner;

THENCE south and in a straight line to the northwest corner of the John Frederick Survey, A-78;

THENCE east along the north line of said Frederick Survey, A-78, to its northeast corner, same being in the west line of the Wm. Clark Survey, A-4;

THENCE south along the west line of said Clark Survey to its southwest corner;

THENCE east along the south line of said Clark Survey to a point in said line which is due north of the northeast corner of the Samuel M. Parrish Hrs. Survey, A-238;

THENCE due south to the northeast corner of said Parrish Survey, and continuing south along the east line of said Parrish Survey to its southeast corner, same being in the north line of the Claiborne West Survey, A-27;

THENCE east along the north line of said West Survey to its northeast corner;

THENCE south along the east line of said West Survey to a point in said line which is the southern northwest corner of the Jno. S. Norris Survey, A-254;

THENCE east along the southern north line of said Norris Survey and continuing east along a projection of said southern north line to a point in the east line of said Norris Survey;

THENCE south along the east line of said Norris Survey to its southeast corner, same being in the north line of the Anthony Harris Survey, A-13;

THENCE southwesterly and in a straight line on the following line: a line from the southeast corner of said Norris Survey, A-254, to the northwest corner of the D. W. Stakes Survey, A-283, to the point of intersection of said line with the center line of the T. & N. O. R. R. right-of-way;

THENCE in a general westerly direction with the center line of said T. & N. O. R. R. right-of-way to its intersection with the westerly boundary line of Orange County in the Neches River;

THENCE in a general northerly direction with the westerly boundary line of Orange County, with its meanders, to the northwest corner of said County;

THENCE east with the north boundary line of Orange County to the northwest corner of the John W. Maxcy Survey, A-425, being the POINT OF BEGINNING.

BOUNDARIES OF DRAINAGE PRECINCT NO. 4

BEGINNING at a point on the westerly boundary line of Orange County, Texas, where the center line of the T. & N. O. R. R. right-of-way intersects said boundary line;

THENCE in a general easterly direction along the center line of said T. & N. O. R. R. right-of-way to the point of intersection of said center line with a line projected southwesterly and in a straight line from the southeast corner of the Jno S. Norris Survey, A-254, to the northwest corner of the D. W. Stakes Survey, A-283;

THENCE southwesterly along said projected line to the northwest corner of said Stakes Survey;

THENCE easterly along the northerly line of said Stakes Survey to its northeast corner;

THENCE south along the east line of said Stakes Survey to its southeast corner, same being in the north line of the Stephen Jett Survey, A-16;

THENCE east along the north line of said Jett Survey to its intersection with the west right-of-way line of Foreman Road;

THENCE south along the west right-of-way line of Foreman Road to its intersection with the southerly right-of-way line of Farm-to-Market Road No. 1006;

THENCE northeasterly along the southerly right-of-way line of Farm-to-Market Road No. 1006 to its intersection with the westerly line of the E. I. du Pont de Nemours & Co. property in said Jett Survey;

THENCE southeasterly along said westerly line of the du Pont property to a corner;

THENCE southeasterly along another westerly line of said du Pont property to the most southerly corner of said du Pont property, and continuing in the same direction to the easterly boundary line of Orange County in the Sabine River;

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THENCE in a general southwesterly direction with the easterly boundary line of Orange County, with its meanders, to the most southerly corner of said County in Sabine Lake;

THENCE in a general northwesterly direction with the westerly boundary line of Orange County, with its meanders, to a point in the same where the center line of the T. & N. O. R. R. right-of-way intersects said boundary line, and being the POINT OF BEGINNING.

Sec. 3. The Board of Directors shall organize by electing a President, a Vice President, a Secretary, and Treasurer; provided, that the Secretary and Treasurer, at the option of the Board, may be combined into one office. The President and the Vice President shall be members of the Board of Directors, and the Secretary and the Treasurer, or the Secretary-Treasurer, may, or may not, be a member of said Board. The first Board of Directors shall so organize as soon as practicable after the passage of this Act. Following the election of Directors in November of each year, the Board of Directors shall so organize each year; provided, that said Board may so organize oftener if the circumstances so require.

Any vacancy in the office of Director, whether caused by death or resignation or otherwise, shall be filled by appointment for the unexpired term by the remaining members of the Board of Directors; provided, that if there are ever three (3) or more such vacancies at any one time, the same shall be filled by appointment for the unexpired terms by the Commissioners Court of Orange County, Texas.

Any three (3) Directors shall constitute a quorum in any meeting of the Board of Directors. Regular meetings shall be held at such times as may be prescribed by order adopted by the Board of Directors; provided, that there shall be at least one (1) regular meeting during each calendar month. Special meetings to be held at any time may be called by the President or any two (2) other members of the Board of Directors, in which event the Secretary shall give written notice of any such special meeting to each member of the Board of Directors; provided, however, that any member may waive such notice.

The Board of Directors shall employ all necessary employees for the proper handling and operation of the business and affairs of the District. Without in any way limiting the generality of the foregoing, it is expressly provided that the Board may employ a secretary and a treasurer (or a secretary-treasurer), a general manager, attorneys, engineers, bookkeepers, stenographers, clerical employees, laborers, and such other employees as may be required in the judgment of said Board.

Sec. 4. The Board of Directors shall designate the location of the principal office of the District, which may be at any place within the District, and the Board may from time to time change such location. The District shall have an official seal which shall be circular in form, with the name of the District surrounding a five-pointed star.

Sec. 5. The Board of Directors shall cause to be kept and maintained complete and accurate accounts conforming to approved methods of book-keeping. Said accounts and all contracts, documents, and records of the District shall be maintained at such place or places in the District as may be designated by the Board of Directors, and shall be open to public inspection at all reasonable times. The Board shall cause to be made and completed within ninety (90) days after the end of each calendar year, an audit of the books of accounts and financial records of the District for such calendar year, such audit to be made by an independent Certified Public Accountant or a firm of independent Certified Public Accountants. Copies

of a written report of such audit, certified to by said Accountant or Accountants, shall be placed and kept on file with the State Auditor of the State of Texas and at said principal office, and shall be open to public inspection at all reasonable times. The moneys of the District shall be disbursed only on checks, drafts, orders, or other written instruments signed by such persons as shall be authorized to sign the same by order or resolution adopted by said Board.

Sec. 6. Each Director shall receive such compensation as may be fixed by majority vote of the Board of Directors, but in no case shall such compensation in any one calendar year exceed the sum of Three Hundred Dollars (\$300). Each Director shall be reimbursed his (or her) actual traveling expenses incurred out of the District in performing District business. The Board shall fix the compensation of the secretary and the treasurer (or the secretary-treasurer), the general manager, attorneys, engineers, and all other employees and laborers; and said Board shall fix and determine the term and time of employment of all employees of the District and the method by which they may be discharged.

Sec. 7. The Board of Directors shall select a depository or depositories of said District under the same provisions as are now or may hereafter be provided by law for the selection of depositories by counties in this State. The Board in the selection of depositories shall act in the same capacity and perform the same duties as is incumbent upon the County Judge and the Commissioners Court in the selection of county depositories. Such depository or depositories selected by the Board shall have all the powers and duties in the execution of a depository bond or bonds and/or the pledging of collateral in lieu of, or in addition to, a personal surety or surety company bonds as are now or may hereafter be provided by law with respect to county depositories. When such depository or depositories have qualified as provided by law, all funds of the District of any and all kinds shall be deposited therein by the officers or agents of the District designated and authorized by the Board of Directors to collect and deposit the same.

Sec. 8. In addition to the general powers granted by this Act, said District shall be authorized to exercise the following powers, privileges, and functions:

(a) To acquire within the District easements, rights-of-way and any other character of property needed to carry on the work of the District, by way of gift, devise, purchase, leasehold or condemnation. The right of eminent domain is hereby expressly conferred on said District, and the procedure with reference to condemnation, the assessment and estimating of damages, payment, appeal, the entering upon the property pending appeal, and all other procedures prescribed in Title 52 of the Revised Civil Statutes of Texas, 1925, as heretofore or as may hereafter be amended, shall apply to said District. It is expressly provided, however, that the power of eminent domain conferred herein shall not extend to any property or interest therein lying outside the boundaries of the District.

(b) To sell, trade or otherwise dispose of land or other property or rights therein when the same are no longer needed for the purposes for which the District was created.

(c) To devise plans and construct works to lessen and control floods and excess waters; to reclaim lands in the District; to provide drainage facilities and improvements for the reclamation and drainage of the overflowed lands in the District and other lands in the District needing drainage; to acquire or construct properties and facilities and improvements

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beyond the boundaries of the District where, in the judgment of the Board of Directors, such properties, facilities, or improvements are necessary to lessen and control floods within the District or to facilitate the drainage and reclamation of lands within the District; and to remove obstructions, natural or artificial, from streams and water courses, and to clean, straighten, widen, and maintain streams, water courses, and drainage ditches.

(d) To sell or otherwise dispose of any waters impounded by improvements of the District under such conditions, contracts, and terms as may be determined by the Board of Directors, subject to approval of any other political subdivisions heretofore having been granted rights in or to such waters, if any.

(e) To cooperate and contract with any department or agency of the State of Texas, or any political subdivision thereof, or any municipal corporation in such State, to carry out any purpose for which the District is organized.

(f) To cooperate with and contract with the United States of America or with any of its departments or agencies now existing, or which may be created hereafter, to carry out any of the powers or to further any of the purposes set forth in this Act, and, for such purposes, to receive grants, loans, or advancements therefrom; or to contribute to the United States of America or any of its departments or agencies in connection with any project undertaken by it affecting or relating to any of the purposes for which the District is organized.

(g) To sue and be sued in the name of the District, and all courts shall take judicial notice of the establishment and existence of the District.

(h) To construct, acquire, own, and operate all works, ditches, canals, and other improvements over, across, through, under, and along any public streams, canals, roads, highways, or any lands belonging to the State of Texas; provided, that the plans for such improvements on State highways shall be subject to the approval of the State Highway Department and on Prison System lands, shall be subject to the approval of the Texas Department of Corrections; and provided further, that the plans for such improvements on public water supply canals or public streams shall be subject to the approval of the agency or agencies of the State and Federal governments having jurisdiction over or ownership thereof.

(i) To do any and all other acts or things necessary or proper to carry into effect the purposes for which the District is created.

Sec. 9. (a) The Board of Directors shall be authorized, from time to time, to issue the bonds of the District for the purpose of acquiring funds with which to accomplish and carry out any one or more of the powers and purposes herein granted to the District, and to provide for the payment of the interest on said bonds as it accrues and to create and provide a sinking fund for the payment of the principal of said bonds as it matures, by levying and causing to be assessed and collected continuing direct annual ad valorem taxes on all taxable property within the District, as shown by the then current approved assessment rolls of Orange County, sufficient for such purposes. It is expressly provided, however, that the total principal amount of bonds issued by the District at any one time, together with all previously issued bonds of the District then outstanding, shall never exceed a sum equal to seven per cent (7%) of the assessed valuation of taxable property within the District, as shown by the then current assessment rolls of Orange County. No such bonds (except refunding bonds) shall be issued until they have first been authorized by a majority of the

voters qualified to vote on bond issues under the Constitution of Texas, voting at an election called and held for the purpose of determining whether or not such bonds shall be issued and whether or not taxes shall be levied to pay the principal of and interest on such bonds. If a majority of the qualified voters voting at such election shall vote in favor of the issuance of bonds and the levy of taxes, the Board of Directors shall be authorized to issue, sell, and deliver said bonds and to receive and use the proceeds for the aforesaid purposes, and to levy and cause to be assessed and collected taxes upon all taxable property within the District sufficient to pay the interest on and principal of said bonds. Subject to the provisions of this Act, additional bonds may be issued from time to time and in like manner and under the same procedure. The form of ballots in bond elections shall be substantially: "For the bonds and levy of taxes in payment thereof," and the contrary thereof.

(b) All bonds of the District shall be authorized by order or resolution of the Board of Directors, shall be issued in the name of the District, shall be signed by the President and attested by the Secretary, and shall have the seal of the District impressed thereon; provided, that the order or resolution authorizing such bonds may provide for the bonds to be signed by the facsimile signatures of the President and Secretary, either or both, and for the seal of the District on the bonds to be a printed facsimile seal of the District; and provided further, that the interest coupons attached to said bonds may also be executed by the facsimile signatures of said officers. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and may be sold for a price and under terms determined by the Board of Directors to be most advantageous reasonably obtainable, provided that the interest cost to the District, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the Board such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the order or resolution authorizing their issuance. Such bonds may be made registrable as to principal, or as to both principal and interest.

After such bonds have been authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and if such bonds have been authorized in accordance with the provisions of this Act, the said Attorney General shall approve the same, and such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers, they shall thereafter be incontestable except for forgery or fraud.

From the proceeds of sale of any bonds of the District, the Board may appropriate or set aside out of the bond proceeds an amount for the payment of interest expected to accrue during the period of construction of the improvements or facilities, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

(c) The Board of Directors shall have the power to issue refunding bonds of the District for the purpose of refunding any outstanding bonds (original bonds or refunding bonds, either or both) of the District and accrued interest thereon, and no election for the issuance of refunding bonds shall be necessary. Refunding bonds shall be authorized by order

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or resolution of the Board of Directors, and shall be executed and mature as is provided in this Act for original bonds. They shall bear interest at the same or lower rate than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon surrender and cancellation of the bonds to be refunded. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable except for forgery or fraud.

(d) All bonds issued under this Act shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Sec. 10. In addition to taxes for bond purposes, the Board of Directors may levy and cause to be assessed and collected for the maintenance, operation, upkeep, and improvement of the District and its facilities, properties, and improvements, an annual ad valorem tax at a rate not to exceed twenty-five cents (25¢) on each One Hundred Dollar valuation of taxable property within the District; provided, that the proposition of levying such tax shall be first submitted to the qualified resident electors of said District who own taxable property within said District and who have duly rendered the same for taxation, at an election called and held for such purpose, and such proposition shall have been favored by a majority vote of those voting at such election. The form of ballot in such elections shall be substantially: "For Maintenance Tax," and the contrary thereof. Subsequent elections may be ordered and held for the purpose of increasing, reducing, or abating such tax; provided, however, that such tax shall never exceed the maximum rate herein prescribed. It is further expressly provided that, if at the time of the levy of the tax authorized by this Section 10 in any year, the total principal amount of bonds of the District then outstanding exceeds a sum equal to five per cent (5%) of the assessed valuations of taxable property within the District, as shown by the then current assessment rolls of Orange County, the maximum rate of such tax authorized by this Section 10 which may be levied for such year shall be determined as follows:

If the principal amount of bonds then outstanding exceeds five per cent (5%) but does not exceed six per cent (6%), the maximum rate for such year shall be twenty cents (20¢) on each One Hundred Dollars (\$100) of taxable property within the District; and

If the principal amount of bonds then outstanding exceeds six per cent (6%), the maximum rate for such year shall be fifteen cents (15¢) on each One Hundred Dollars (\$100) of taxable property within the District. Without in any way limiting the generality of the purposes for which the tax authorized by this Section 10 may be used, it is expressly provided that

such tax may be used for the purpose of acquiring or purchasing easements and rights-of-way.

Sec. 11. Maintenance taxes and bonds may be authorized at the same election or elections. Any such election shall be held not more than sixty (60) nor less than fourteen (14) days after the date of adoption of the order or resolution calling the election, and notice of such election shall be given by publication of a substantial copy of the order or resolution calling the election in a newspaper of general circulation within the District on the same day in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days prior to the date of such election. No other notice of election shall be necessary. The provisions of Chapter 1 of Title 22, Revised Civil Statutes, 1925, as amended, shall apply to such maintenance tax and bond elections except where in conflict or inconsistent with the provisions of this Act, in which event or events the provisions of this Act shall govern and prevail.

The Commissioners Court of Orange County, Texas, at its option, at the time of ordering the first election for the election of members of the first Board of Directors of the District, as provided in Section 2 of this Act, may also order an election at which the proposition of levying a maintenance tax shall be submitted to the duly qualified resident electors of said District who own taxable property within said District and who have duly rendered the same for taxation (as provided in Section 10 of this Act); and in such event, the maintenance tax election shall be held on the same day and at the same places as the first election for the election of the members of the first Board of Directors, and the same election officers who conduct said first election may also act as officers for the maintenance tax election. Notice of such maintenance tax election shall be given as is provided above for maintenance tax and bond elections.

Except for the maintenance tax election permitted by the immediately preceding paragraph, all maintenance tax and bond elections shall be ordered by the Board of Directors of the District.

Sec. 12. The assessed valuations of taxable properties for District purposes shall be the same as that for County purposes; and the County Tax Assessor-Collector of Orange County, Texas, is hereby named and appointed Tax Assessor-Collector for the District and the Board of Equalization of Orange County, Texas, is hereby named, constituted, and appointed the Board of Equalization for said District. Each year prior to certifying to the County Tax Assessor-Collector of Orange County the tax rates levied for such year, as hereinafter provided, the Board of Directors shall specify a time and place for a budget hearing at which taxpayers of the District may appear before such Board. Notice of such hearing shall be published one (1) time in a newspaper of general circulation within the District at least fifteen (15) days prior to the date of such hearing. At such hearing any taxpayer who appears shall be entitled to a full explanation by the Board of Directors of the taxes levied for such year and the purposes for which such taxes have been levied.

The Board of Directors each year shall certify to the County Tax Assessor-Collector of Orange County the rate or rates of taxes levied for bond and maintenance purposes, and it shall be the duty of said Tax Assessor-Collector to cause said taxes to be assessed and collected. All laws of the State of Texas relating to the assessing and collecting of County taxes are by this Act made available for, and shall be applied to, the assessing of current taxes and to the collection of both current and delinquent taxes of the District. The County Tax Assessor-Collector shall be paid such sum,

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

not to exceed an aggregate of two per cent (2%), for assessing and collecting, as may be prescribed by the Board of Directors.

Sec. 13. It is recognized that the District lies entirely within two (2) watersheds, namely: the East Watershed and the West Watershed; that the East Watershed consists of all that part of the District lying within Drainage Precincts Numbers 1 and 2; and that the West Watershed consists of all that part of the District lying within Drainage Precincts Numbers 3 and 4, the boundaries of which Drainage Precincts have heretofore in this Act been defined. All moneys received by the District for maintenance and/or operational purposes, insofar as the same lawfully may, shall be expended in connection with improvements and facilities in said two (2) Watersheds, respectively, in the proportion that the assessed valuations of taxable property in said Watersheds bear, respectively, to the total assessed valuations of taxable property in the District, from year to year.

Sec. 14. (a) Orange County Conservation and Reclamation District, heretofore created under Title 128, Revised Civil Statutes of Texas, 1925, is hereby abolished. As said Orange County Conservation and Reclamation District has no outstanding bonded indebtedness, all of its assets, liabilities, records, equipment, drainage systems and ditches and canals, and other properties and facilities shall upon the passage of this Act and by operation of law be transferred to the District created by this Act; provided, that if any instruments of transfer are required by law, the Board of Supervisors of said Orange County Conservation and Reclamation District are hereby directed to execute the same.

(b) All acquisitions by said Orange County Conservation and Reclamation District of drainage systems and canals and ditches, easements, rights-of-way, and other properties and facilities (whether located on private property or public property, either or both) are hereby in all things validated; and upon the passage of this Act, the title to the same shall be vested in the District created by this Act.

Sec. 15. This Act and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

Sec. 16. It is hereby found that all property, both real and personal, within the District and within the State of Texas is and will be benefited by said District and by its improvements and facilities acquired or constructed and to be acquired or constructed under the provisions of this Act, and by all the provisions of this Act. Acts 1963, 58th Leg., p. 791, ch. 307.

Emergency. Effective May 30, 1963.

Art. 8280—293. Lake Dallas Municipal Utility Authority

Section 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a conservation and reclamation district to be known as "Lake Dallas Municipal Utility Authority" (hereinafter called "Authority"), which shall be a governmental agency, an agency of the State of Texas, and a body politic and corporate.

Sec. 2. The Authority shall be comprised of all of the territory which was contained in the City of Lake Dallas, Denton County, Texas, on April 30, 1963. As herein used, "City" means City of Lake Dallas.

It is hereby found and determined that all of the territory and taxable property contained within the area above described will be benefitted by the works and improvements of the Authority.

Sec. 3. (a) All powers of the Authority shall be exercised by a Board of Directors (hereinafter called the "Board"). Each member shall serve for a term of two (2) years except for the first directors appointed initially pursuant to this Act. Immediately following the effective date of this Act, the governing body of the City of Lake Dallas (hereinafter called the "City"), shall appoint five (5) members, two (2) of whom shall serve for a term through April 30, 1964, and three (3) shall serve through April 30, 1965.

(b) During April following the effective date of this Act and in April of each year thereafter, the governing body of the City shall appoint directors to succeed directors whose terms are about to expire. Any vacancy shall be filled for an unexpired term by the governing body of such City.

(c) Each director shall serve for his term of office as herein provided and thereafter until his successor shall be appointed and qualified. No person shall be appointed a director unless he resides in and owns taxable property in the Authority. No member of a governing body of the City and no employee of the City shall be appointed as director. Such directors shall subscribe the Constitutional oath of office, and each shall give bond for the faithful performance of his duties in the amount of Five Thousand Dollars (\$5,000), the cost of which shall be paid by the Authority. A majority shall constitute a quorum. If any director moves from the Authority or otherwise ceases to be a director, the governing body of the City shall appoint a director to succeed him for the unexpired term.

(d) No compensation shall be paid to directors.

Sec. 4. The Board shall elect from its number a president and a vice president of the Authority and such other officers as in the judgment of the Board are necessary. The president shall be the chief executive officer of the Authority and the presiding officer of the Board and shall have the same right to vote as any other director. The vice president shall perform all duties and exercise all powers imposed or conferred by this Act upon the president when the president is absent or fails or declines to act, except the exercise of the president's right to vote. The Board shall also appoint a secretary and a treasurer who may or may not be members of the Board, and it may combine those offices. The treasurer shall give bond in such amount as may be required by the Board. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody as treasurer of the Authority. The Board shall appoint necessary engineers, attorneys and other employees and employ a manager. The power to employ and discharge employees may be conferred upon the manager. The Board shall adopt a seal for the Authority.

Sec. 5. Territory annexed to the City may be annexed to the Authority in the following manner:

(a) At any time after final passage of an ordinance annexing territory to the City, the Board may issue a notice of hearing on the question of annexing to the Authority said territory or any part thereof. Such notice shall be sufficient if it states the date and place of the hearing, a description of the area proposed to be annexed, but in lieu of such description the notice may make reference to the annexation ordinance of the City.

(b) The notice shall be published one time in a newspaper having general circulation in the City, such publication shall be at least ten (10) days before the date set for the hearing.

(c) If pursuant to such hearing, the Board finds that the territory proposed to be annexed will be benefitted by the water supply afforded or to

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

be afforded by the Authority, the Board shall adopt a resolution annexing said territory to the Authority.

(d) After territory is added to the Authority, the Board may call an election over the entire Authority as enlarged for the purpose of determining whether the entire Authority as enlarged shall assume the tax-supported bonds then outstanding and those theretofore voted, if any, but not yet sold and whether an ad valorem tax shall be levied upon all taxable property within the Authority as enlarged for the payment thereof. Such election shall be called and held in the same manner as elections for the issuance of bonds wholly or partially supported by taxation as provided in Section 14 of this Act.

Sec. 6. Authority is authorized to develop a surface or underground water supply and to construct or cause to be constructed a diversion works, pumps, pumping stations, pipelines, intermediate and terminal storage reservoirs, a water treatment plant, distribution system and all other related facilities which will implement the duty of the Authority to deliver and distribute water to the City and other water users, and to purchase, improve and extend the existing water system or systems. The specifications contained in this Section of certain elements of the Authority's proposed water supply, treatment, and transportation system, shall not preclude Authority from constructing all facilities necessary or convenient in enabling Authority to deliver, treat and distribute water. The Authority is also authorized to construct a complete sanitary sewer system. The gathering and proper disposal of sewage is declared to be necessary to protect surface and underground water supplies from contamination. The Authority is authorized to use the public streets, alleys, ways and places for the laying of its water and sewer lines and facilities. The Authority is authorized to make contracts for the purchase of water or water supplies, and to make contracts for the sale of water.

Sec. 7. The Authority is empowered to obtain an appropriation permit or permits from the Texas Water Commission (successor to State Board of Water Engineers), as provided in Chapter 1 of Title 128, Revised Civil Statutes of 1925, as amended, for the appropriation of surface water.

Sec. 8. The Authority is authorized to acquire all works, machinery, plants and other facilities and to acquire land, rights-of-way and easements for the purpose of exercising its rights and performing its duties under this Act. Subject to the application of the terms of any deed of trust or indenture executed by the Authority, it may sell, trade, or otherwise dispose of any real or personal property deemed by the Board not to be needed for Authority purposes.

Sec. 9. (a) The Authority shall have the right to acquire by condemnation the fee simple title to, easements or rights-of-way in or upon, or other interests in land and other property and easements within and without the boundaries of the Authority within Denton County, necessary to the exercise of the powers, rights, privileges and functions conferred upon the Authority by this Act in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain, or at the option of the Authority in the manner provided by Statutes relative to condemnation by Districts organized under General Law pursuant to Section 59, Article 16 of the Constitution of the State of Texas. This Authority is hereby declared to be a municipal corporation within the meaning of Article 3268 of said Title 52. The amount of and character of interest in land, other property and easements thus to be acquired shall be determined by the Board of Directors. The Authority shall have the same

rights and powers within such counties as are conferred upon water control and improvement districts by Section 49 of Chapter 25, Acts of the Thirty-ninth Legislature, with reference to making surveys and attending to other business of the Authority.

(b) In the event that the Authority, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting, or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipelines, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the Authority. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 10. Any construction contract requiring an expenditure of more than Two Thousand Dollars (\$2,000) shall be made after publication of a notice to bidders once each week for two (2) weeks for sealed bids before awarding the contract. Such bids shall be opened publicly. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper of general circulation in the Authority and designated or approved by the Board.

Sec. 11. (a) For the purpose of carrying out any power or authority conferred by this Act, the Authority is empowered to issue its negotiable bonds to be payable from revenues or taxes or both revenues and taxes of the Authority as are pledged by resolution of the Board. Pending the issuance of definitive bonds the Board may authorize the delivery of negotiable interim bonds or notes, eligible for exchange or substitution by use of the definitive bonds.

(b) Such bonds shall be authorized by resolution of the Board and shall be issued in the name of the Authority, signed by the president or vice president, attested by the secretary and shall bear the seal of the Authority. It is provided, however, that the facsimile signatures of the president or of the secretary or of both may be printed or lithographed on the bonds if authorized by the Board, and the seal of the Authority may be impressed on the bonds or may be printed or lithographed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the Board to be the most advantageous reasonably obtainable, provided that the interest on the bonds, including the discount, if any, shall not exceed six per cent (6%) per annum, and within the discretion of the Board, the bonds may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

(c) Bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act.

(d) The bonds may be secured by a pledge of all or part of the net revenues of the Authority, or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues or income specified by resolution of the Board or in the trust indenture or other instrument

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securing the bonds. Any such pledge may reserve the right under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "Net revenues" as used in this Section shall mean the gross revenues and income of the Authority thus pledged after deduction of the amount necessary to pay the cost of performing any such contract and of maintaining and operating the Authority and its properties.

(e) After the authorizing election required under Section 14 shall have been held and carried, the Authority is also empowered to issue bonds payable from ad valorem taxes to be levied on all taxable property therein, or to issue bonds secured by and payable from both such taxes and the revenues of the Authority. Where bonds are issued payable wholly or partially from ad valorem taxes, it shall be the duty of the Board to levy a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, but the rate of the tax for any year may be fixed after giving consideration to the money received from the other pledged revenues which may be available for payment of principal and interest to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(f) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board to fix, and from time to time to revise, the rates of compensation for water sold and services rendered by the Authority which will be sufficient to pay the expense of operating and maintaining the facilities of the Authority and to pay the bonds as they mature and the interest as it accrues and to maintain the reserve and other funds as required in the resolution authorizing the bonds or in the trust indenture or other instrument securing the bonds. Where bonds payable partially from revenues and partially from taxes are issued it shall be the duty of the Board to fix, and from time to time revise, the rates of compensation for water sold and services rendered by the Authority which will be sufficient to assure compliance with the resolution authorizing the bonds and with any trust indenture or other instrument securing the bonds.

(g) From the proceeds from the sale of the bonds, the Authority may set aside amounts for the payments into the interest and sinking fund and the reserve fund, and such provisions may be made in the resolution authorizing the bonds or any trust indenture or other instruments securing the bonds. Proceeds from the sale of the bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which this Authority is created, including expenses of issuing and selling the bonds. The proceeds from the sale of the bonds may be invested in obligations to be specified by the resolution authorizing the bonds or the trust indenture or other instrument securing the bonds.

(h) Funds accumulated for the payment of bonds and for revenues may be invested in obligations specified in the resolution authorizing the bonds or in the indenture.

(i) In the event of a default or a threatened default in the payment of principal or of interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of the holders of outstanding bonds, appoint a receiver with authority to collect and receive all income of the Authority except taxes, employ and discharge agents and employees of the Authority, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the Authority without consent or hindrance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of water or renew such contracts with the approval of the court

appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. The resolution authorizing the issuance of the bonds or the trust indenture or other instrument securing them may limit or qualify the rights of the holders of less than all of the outstanding bonds payable from the same source to institute or prosecute any litigation affecting the Authority's property or income.

(j) Any provision in this Act to the contrary notwithstanding before issuing any construction bonds said Authority shall submit plans and specifications therefor to the Texas Water Commission (successor to State Board of Water Engineers) for approval in the manner required by Article 7880—139, Vernon's Annotated Civil Statutes of Texas, as amended, and said Authority's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139.

Sec. 12. The Authority is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine the revenues pledged to the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues and mortgage liens. The provisions of this law with reference to the issuance by the Authority of other bonds, their security, and their approval by the Attorney General and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and the interest on the original bonds to their option date or maturity date, and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 13. Any bonds (including refunding bonds) authorized by the law, not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the Trustee may be a bank, having trust powers, situated either within or outside of the State of Texas. Such bonds, within the discretion of the Board, may be additionally secured by a deed of trust or mortgage lien upon physical properties of the Authority and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for the payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties may contain any provisions prescribed by the Board for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend Authority money or sell Authority property upon approval of a registered professional engineer selected as provided therein, and may make provision for the investment of funds of the Authority. Any purchaser under a sale under the deed of trust lien, where one is given, shall be the absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate the same.

Sec. 14. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by an election at which only the qualified voters residing in the Authority who own taxable property therein and who have duly rendered the same for taxation shall be allowed to vote, and unless a majority of the votes cast thereat is in favor of the issuance of the bonds. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such election may be called by the Board without a petition. The resolution calling the election shall specify the time and places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the form of the ballot, and the presiding judge for each voting place. Bonds for water purposes and sewer purposes may, in the discretion of the Board, be submitted in a single proposition. The presiding judge serving at each voting place may appoint one (1) assistant judge and two (2) clerks to assist in holding such election. Notice of the election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper having general circulation in the Authority on the same day of each of two (2) consecutive weeks. The first publication shall be at least fourteen (14) days prior to the date set for the election.

(c) The returns of the election shall be made to and canvassed by the Board.

(d) The General Laws relating to elections shall be applicable to elections held under this Section of this law except as otherwise provided in this law.

Sec. 15. After any bonds (including refunding bonds) are authorized by the Authority, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the Authority and City or other governmental agency, authority or district, a copy of such contract and the proceedings of the City or other governmental agency, authority or district authorizing such contract may also be submitted to the Attorney General. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds and such contracts, and the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter the bonds and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

Sec. 16. (a) The Board shall designate one or more banks within Denton County to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust agreement, and except that funds shall be remitted to the bank or banks of payment for the payment of principal of and interest on bonds. To the extent that funds in the depository bank and the trustee bank are not insured by the Federal Deposit Insurance Corporation they shall be secured in the manner provided by law for the security of City funds.

(b) Before designating a depository bank or banks, the Board shall issue a notice stating the time and place when and where the Board will meet for such purpose and inviting the banks in the Authority to submit applications to be designated depositories. The terms of service for depositories shall be prescribed by the Board. Such notice shall be in writing

and either published or mailed to each bank within the County at least ten (10) days prior to the date fixed for receiving bids.

(c) At the time mentioned in the notice, the Board shall consider the applications and the management and condition of the banks filing them, and shall designate as depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the Authority, and which the Board finds have proper management and are in condition to warrant handling of Authority funds. Membership on the Board of an officer or director of a bank shall not disqualify such bank from being designated as depository.

(d) If no applications are received by the time stated in the notice, the Board may designate some bank or banks within or without the county upon such terms and conditions as it may find advantageous to the Authority.

Sec. 17. All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 18. The accomplishment of the purposes stated in this Act is for the benefit of the people of this State and for the improvement of their properties and industries, and the Authority, in carrying out the purposes of this Act, will be performing an essential public function under the Constitution. The Authority shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this State.

Sec. 19. The City of Lake Dallas tax rolls shall constitute the tax rolls of the Authority. All taxes levied by the Board of Directors of the Authority shall be placed on the City rolls and collected by the City. Laws relating to the assessment of property for taxation, equalization of assessed values, collection and enforced collection of taxes applicable to the City shall be applicable to the Authority. If territory is added to the Authority which is not contained in the City, the taxable property in such territory shall be added to the City rolls.

Sec. 20. The Authority and the City may enter into a contract under which the City employees will perform certain or all administrative duties which might otherwise require the employment of full-time personnel by the Authority.

Sec. 21. Nothing in this Act shall be interpreted as amending or repealing Article 7471, Revised Civil Statutes of Texas, which provides for priorities of the use of water.

Sec. 22. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other per-

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

sons or circumstances, shall not be affected thereby. Acts 1963, 58th Leg., p. 816, ch. 312.

Emergency. Effective May 30, 1963.

Priority in appropriation of water, see art. 7471.

Art. 8280—294. Pearland Municipal Utility District of Brazoria County

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Brazoria County, Texas, to be known as "Pearland Municipal Utility District of Brazoria County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

COMMENCING at the intersection of the west line of Section 13, H. T. & B. Survey, Abstract 240, Brazoria County, Texas, with the south right-of-way line of Farm to Market Road 518, based on 100 feet width, said intersection also being located south a distance of 76.5 feet from the northwest corner of said Section 13;

THENCE N. 89° 59' E. along the said south right-of-way line of Farm to Market Road 518 a distance of 2640 feet to the PLACE OF BEGINNING of the tract being described;

THENCE N. 89° 59' E. along said south right-of-way line of Farm to Market Road 518 and continuing in the same direction along a projection of said south right-of-way line a total distance of 2149 feet to a point for corner;

THENCE S. 0° 07' 50" W., a distance of 200 feet, to a point for corner;

THENCE N. 89° 59' E., a distance of 450 feet, to a point for corner in the west right-of-way line of County Road 104, based on 60 feet width;

THENCE S. 0° 07' 50" W., along said west right-of-way line of County Road 104 a distance of 475.20 feet to the northeast corner of a 1.0 acre tract;

THENCE West a distance of 125.00 feet to the northwest corner of said 1.0 acre tract;

THENCE S. 0° 07' 50" W. a distance of 348.48 feet to the southwest corner of said 1.0 acre tract;

THENCE East a distance of 125.00 feet to the southeast corner of said 1.0 acre tract and the said west right-of-way line of County Road 104;

THENCE S. 0° 07' 50" W. along the said west right-of-way line of County Road 104 a distance of 1616.32 feet to a point for corner;

THENCE S. 89° 59' W. a distance of 627.9 feet to the southeast corner of a 13 acre tract owned by Jack M. Fite, et ux;

THENCE N. 0° 07' E. a distance of 1305.67 feet to a ¾-inch iron pipe in the northeast corner of said 13 acre tract;

THENCE N. 89° 47' W. a distance of 494.33 feet to a ¾-inch iron pipe in the northwest corner of said 13 acre tract;

THENCE S. 0° 09' 30" W., at 1018.69 feet pass the most northerly southwest corner of said 13 acre tract, and the northwest corner of a 2 acre tract owned by James M. Smith, et ux, and continuing in all a distance of 1307.69 feet to the southwest corner of said 2 acre tract;

THENCE S. 89° 59' W. a distance of 1469.81 feet to a point for corner in a shell road;

THENCE North a distance of 2640.0 feet to an intersection with the south right-of-way line of Farm to Market Road 518, the PLACE OF BEGINNING, said tract lying in Section 13 of the H. T. & B. Survey, Abstract 240, Brazoria County, Texas, and containing 139.42 acres of land, more or less; provided, however, that there shall be excluded from the foregoing tract or area comprising said District all land, if any, now located within the boundaries of any existing water control and improvement district.

Sec. 2. Any provision in this Act to the contrary notwithstanding before issuing any construction bonds said District shall submit plans and specifications therefor to the Texas Water Commission (successor to State Board of Water Engineers) for approval in the manner required by Acts of the Fifty-seventh Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880-139, and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880-139.

Sec. 2A. Such District may be annexed by and may become a part of an incorporated city or town, including a Home-Rule City and cities operating under General Laws or special charters, in the manner provided by law, but said District shall not be abolished and the provisions of Chapter 128, Acts of the Fiftieth Legislature, Regular Session, 1947 (codified by Vernon's Texas Civil Statutes as Article 1182c-1), as amended, shall not be applicable to said District except by mutual agreement between the governing body of said city and the District's Board of Supervisors.

Sec. 3. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the Forty-seventh Legislature of Texas, Regular Session, 1941 (Article 7930-4, Vernon's Texas Civil Statutes, as amended), even though said District is located within a county of less than five hundred thousand (500,000) inhabitants, and including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the Fifty-second Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes, as amended); and it is further provided that the District shall be subject to, and have the powers granted by, Chapter 128, Acts of the Fiftieth Legislature of Texas, Regular Session, 1947, as the same is now, or hereafter may be, amended. Said District shall also have the power to reclaim and drain its overflowed lands and other lands needing drainage. Said District shall also have the power to make, purchase, construct, or other-

wise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws. In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The power of eminent domain for said District shall only extend to Brazoria County.

Sec. 4. The management and control of the District is hereby vested in a Board of five (5) supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be Cloyd Young, Edgar M. Whitlow, Rufus W. Higginbotham III, Thomas A. Russ, and Paul Raines. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall resign, die, become incapacitated, or otherwise not qualify to assume their duties under this Act, such vacancy shall be filled by election by a majority of the remaining supervisors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected by General Law for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1965, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of General Laws relating to fresh water supply districts. It shall not be necessary, however, that a Supervisor be a resident of or a landowner in such District.

Sec. 5. All provisions of the General Laws relative to the assessment, levy and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and, further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 6. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 7. Land, either contiguous to said District or separated therefrom by a public road, may be added to said District by means of petition and hearing in the manner provided by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925, as amended. The power of eminent domain of the District shall be confined to the boundaries thereof.

Sec. 8. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said Constitutional provision; finds that all of the land and other

property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or otherwise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation. Acts 1963, 58th Leg., p. 840, ch. 321.

Effective May 30, 1963.

Art. 8280—295. Oak Manor Municipal Utility District of Brazoria County

Section 1. Under and pursuant to the provisions of Section 59 of Article XVI, Constitution of Texas, a conservation and reclamation district is hereby created and incorporated in Brazoria County, Texas, to be known as "Oak Manor Municipal Utility District of Brazoria County, Texas," hereinafter referred to as the "District," and the boundaries of said District shall be as follows:

Field Notes: For Oak Manor Municipal
Utility District of Brazoria
County, Texas
April 16, 1963

BEGINNING at a 1½" Iron Pipe on the northwest right-of-way line of County Road No. 193 on the most southerly corner of Tract No. 7 of Block "H" of the South Texas Fruit and Land Company Subdivision, Angier, Hall, and Bradley Survey, Abstract No. 6, Brazoria County, Texas;

THENCE S. 63° 00' W. along said northwest right-of-way line of said County Road No. 193 to an intersection with the northeast right-of-way line of County Road No. 192;

THENCE S. 30° 24' 48" E. across said County Road No. 193 and continuing S. 30° 24' 48" E. along the said northeast right-of-way of said County Road No. 192 for a total distance of 1689.60 feet in all to a 1½" Iron Pipe on the southeasterly line of Tract No. 5 of Block "I" of said South Texas Fruit and Land Company Subdivision;

THENCE N. 63° 00' E. along the said southeasterly line of said Tract No. 5 of said Block "I", at a distance of 254.39 feet pass an Iron Pipe on the most easterly corner of said Tract No. 5 of said Block "I", and continuing along the southeast line of said Block "I" pass an Iron Pipe at 1306.19 feet on the most easterly corner of Tract No. 6 of said Block "I" of said South Texas Fruit and Land Company Subdivision and continuing along the southeast line of said Block "I" pass an Iron Pipe at 2357.99 feet on the most easterly corner of Tract No. 7 of said Block "I" of said South Texas Fruit and Land Company Subdivision and continuing along the said southeast line of said Block "I" for a total distance of 2589.38 feet in all to an Iron Pipe on the west right-of-way line of State Highway No. 35;

THENCE N. 29° 25' 45" E. along the said west right-of-way line of said State Highway No. 35 for a distance of 1029.83 feet to a pipe for a corner;

THENCE S. 63° 00' W. along the said west right-of-way line of said State Highway No. 35, 36.16 feet to a concrete monument for a corner;

THENCE continuing along said west right-of-way line of State Highway No. 35, N. 29° 25' 45" E. 315.64 feet to a concrete monument for a corner;

THENCE continuing with said west right-of-way line of State Highway No. 35, N. 18° 07' 09" E. 101.98 feet to a concrete monument for a corner;

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THENCE continuing with said west right-of-way line of State Highway No. 35, N. 29° 25' 45" E. a distance of 272.57 feet to an Iron Pipe on the most easterly corner of the Oak Manor Estates Subdivision, Section No. 1;

THENCE N. 60° 47' W. 830.01 feet to a point in the center-line of said County Road No. 193;

THENCE N. 27° W. 30.0 feet to the northwest right-of-way line of said County Road No. 193;

THENCE S. 63° 00' W. along said northwest right-of-way line of said County Road No. 193 for a distance of 1154.15 feet to an iron pipe on the most easterly corner of said Tract No. 7 of said Block "H";

THENCE N. 27° 00' W. along the northeast line of Tract No. 7 of said Block "H" to the most northerly corner of said Tract No. 7 of said Block "H";

THENCE S. 63° 00' West along the northwest line of said Tract No. 7 of said Block "H" to the most westerly corner of said Tract No. 7 of said Block "H";

THENCE S. 27° 00' E. along the common line between said Tract No. 7 and Tract No. 6 of said Block "H" to a 1½" Iron Pipe on the northwest right-of-way line of County Road No. 193, the place of beginning, and containing 175.09 acres of land, more or less, and being a part of Blocks "H" and "I" of said South Texas Fruit and Land Company Subdivision, Angier, Hall, and Bradley Survey, Abstract No. 6, Brazoria County, Texas.

Sec. 2. The District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by the General Laws of the State of Texas now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act. Without in any way limiting the generalization of the foregoing, it is expressly provided the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges and duties conferred and imposed by Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereto and additions thereto, including all powers and authority relating to sanitary sewer systems and the issuance of bonds therefor as authorized by and provided in Chapter 129, Acts of the Forty-seventh Legislature of Texas, Regular Session, 1941, as amended (Article 7930—4, Vernon's Texas Civil Statutes), even though said District is located within a county of less than five hundred thousand (500,000) inhabitants, and including the power and authority to issue tax bonds, revenue bonds or tax-revenue bonds as authorized by and provided in Chapter 233, Acts of the Fifty-second Legislature of Texas, Regular Session, 1951 (Article 7941c, Vernon's Texas Civil Statutes, as amended); and it is further provided that the District shall be subject to, and have the powers granted by, Chapter 128, Acts of the Fiftieth Legislature of Texas, Regular Session, 1947, as the same is now, or hereafter may be, amended. Said District shall also have the power to reclaim and drain its overflowed lands and other lands needing drainage. Said District shall also have the power to make, purchase, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary or convenient to carry out the powers and authority granted by this Act and said General Laws. In the event that the District, in the exercise of the power of eminent domain or power

of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The power of eminent domain for said District shall only extend to Brazoria County.

Sec. 2A. The power of eminent domain of the District shall be confined to the boundaries thereof.

Sec. 3. The management and control of the District is hereby vested in a Board of five (5) Supervisors which shall have all of the powers and authority and duties conferred and imposed upon boards of supervisors of fresh water supply districts organized under the provisions of Chapter 4 of Title 128, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto. The members of the first Board of Supervisors shall be Gilbert J. Drab, Clifford W. Stephens, Orville H. Holcomb, Dougal C. Pope, and William P. Ludwig, Jr. Said members shall become Supervisors immediately after this Act becomes effective, and said first Board of Supervisors shall meet and organize as soon as practicable after the effective date of this Act, and shall file their official bonds. If any of the aforementioned members of said first Board of Supervisors shall die, become incapacitated, or otherwise not qualify to assume their duties under this Act, the County Judge of Brazoria County, Texas, shall appoint his or their successors. With the exception of said first Board of Supervisors, the Board of Supervisors shall be selected by General Law for fresh water supply districts. The first election of Supervisors of such District shall be held on the first Tuesday in January, 1965, and in accordance with Article 7897, Revised Civil Statutes of Texas, 1925. Thereafter, Supervisors of the District shall be chosen, and elections for Supervisors shall be held in accordance with the provisions of General Laws relating to fresh water supply districts. It shall not be necessary, however, that a Supervisor be a resident of such District.

Sec. 4. All provisions of the General Laws relative to the assessment, levy and collection of ad valorem taxes shall apply to the District, except that the District's Tax Assessor-Collector shall be appointed by the Board of Supervisors for a term not to exceed the term of office of the members of the Board making such appointment, and, further, that said Tax Assessor-Collector need not be a resident or voter of the District.

Sec. 5. It is hereby found and determined that all of the lands and other property included within the District are, and will be, benefited by the creation of the District and by the improvements that the District will purchase, construct, or otherwise acquire, and that the District is created to serve a public use and benefit. Upon the adoption of this Act, said District shall be a fully created and established fresh water supply district.

Sec. 6. Land, contiguous to said District or otherwise, may be added to said District in the manner provided by Chapter 4, Title 128, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 7. The Legislature hereby exercises the authority conferred upon it by Section 59 of Article XVI, Constitution of Texas, and declares that the District created by this Act is essential to the accomplishment of the purposes of said constitutional provision; finds that all of the land and other property included therein are, and will be, benefited thereby and by the improvements that the District will purchase, construct, or other-

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wise acquire; and declares the District to be a governmental agency, a body politic and corporate, and a municipal corporation.

Sec. 8. Provided, however, that before issuing any construction bonds said District shall submit plans and specifications therefor to the Texas Water Commission (successor to State Board of Water Engineers) for approval in the manner required by Acts of the Fifty-seventh Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880—139, and said District's project and improvements during the course of construction shall be subject to inspection in the manner provided by said Article 7880—139. Acts 1963, 58th Leg., p. 844, ch. 322.

Emergency. Effective May 30, 1963.

Art. 8280—296. Aransas County Conservation and Reclamation District

Section 1. District Created. Pursuant to, as expressly authorized by Section 59, Article XVI of the Constitution of the State of Texas, and in addition to all other Districts into which the state has been divided heretofore, there is hereby created a Conservation and Reclamation District to be known as "Aransas County Conservation and Reclamation District" (hereinafter referred to as the District), which shall be recognized to be a governmental agency, a body politic and corporate, and a political subdivision of this state. The area of the District shall consist of all of the County of Aransas, State of Texas, and the boundaries of said District shall be identical with the boundaries of said county. It is provided, however, that such District shall not include any property or territory which, on the effective date of this Act, is situated in any valid Water Control and Improvement District heretofore created. It is hereby found and declared that all the area of the District will be benefited and that the District hereby created will serve a public use and be of public benefit.

Sec. 2. Governing Body of the District. (a) All powers of the District shall be exercised by a Board of six (6) Directors. Each Director shall serve a term of office as herein provided, and thereafter until his successor shall be elected or appointed and qualified. No person shall be a Director unless he is at least twenty-one years of age, resides in and owns land in the territorial limits of the District. Said Directors shall subscribe to the constitutional oath of office and each shall give bond in the amount of Five Thousand Dollars (\$5,000) for the faithful performance of his duties, the cost of which shall be paid by the District. A majority of said Board shall constitute a quorum for the transaction of any and all business.

(b) Immediately after this Act becomes effective, the following named persons (all at least twenty-one years of age and residing and being owners of land within said District) shall be the Directors of said District, and shall constitute the Board of Directors of said District:

Glen Ellis
Grady West
J. L. Baughman
R. L. Fleming
Mathew Scott
Harold Picton

If any of the aforementioned persons shall become incapacitated or otherwise not be qualified to assume his duties under this Act, the remaining Directors shall appoint his successor. Succeeding Directors shall be elected or appointed as hereinafter provided.

(c) The first two (2) named Directors in Section 3(b), above, shall serve until the first Tuesday in April, 1964, and thereafter until their successors have been declared elected and qualified, the following two (2) named Directors shall serve until the first Tuesday in April, 1966, and thereafter until their successors have been declared elected and qualified, and the last two (2) named Directors shall serve until the first Tuesday in April, 1968 and thereafter until their successors have been declared elected and qualified. Elections of two (2) Directors to serve for six (6) year terms shall be held on the first Tuesday in April 1964 and on the first Tuesday of each even-numbered year thereafter. Such election shall be ordered by the Board of Directors. Notice of the election shall be published in a newspaper of general circulation in the District one (1) time at least thirty (30) days before the election. The election order shall state the time, the place or places and purpose of the election, and the Board of Directors shall appoint a presiding judge who shall appoint one (1) assistant judge and at least two (2) clerks to assist in holding such election. Only qualified electors residing in the District shall be entitled to vote at said election. The candidates receiving the highest number of votes shall be declared elected. Returns of the election shall be made to and canvassed by the Board of Directors of said District, which shall enter its order declaring the results of the election.

(d) Any candidate for Director, desiring to have his name printed on the ballot may do so by a petition so requesting signed by not less than ten (10) residents of the District who are qualified to vote at the election. Such petition shall be presented to the Secretary of the Board of Directors, not less than ten (10) full days prior to the date of the election.

(e) Any vacancies occurring in the Board of Directors shall be filled for the unexpired term by majority vote of the remaining Directors.

(f) The Directors shall receive such fees for attending Board meetings as may be established by unanimous vote of the Board, but not to exceed Ten Dollars (\$10) for each meeting and not more than Twenty Dollars (\$20) for all meetings held in any one calendar month. Said Directors shall also be entitled to receive reimbursement for actual expenses incurred in attending to District business, provided that such expenses are approved by the Board.

(g) The Board of Directors of the District shall elect from its number a President and Vice-President, and such other officers as in the judgment of the Board are necessary. The President shall be the chief executive officer, and the presiding officer of the Board, and shall have the same right to vote as any other Director. The Vice-President shall perform all duties and exercise all power conferred by this Act upon the President when the President is absent or fails to or declines to act. The Board shall also appoint a Secretary, who may or may not be a member of the Board. Four (4) members of the Board shall constitute a quorum for the transaction of all business and a favorable vote of a majority of a quorum present shall be sufficient for the enactment of all measures. The Directors shall hold regular meetings at least once a month at such time and place as is fixed by resolution or by laws of the Board, with at least one (1) such meeting to be held each month. The President or any two (2) members may call such special meetings as may be necessary in the administration of the District's business provided that at least five (5) days prior to the meeting date the Secretary shall have mailed notice to each member, and notice of special meetings may be waived in writing by any Director.

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(h) The Directors shall carefully keep and preserve a true and full account of all their meetings and proceedings, and preserve their minutes, contracts, records, notices, accounts, receipts and records of all kinds. The same shall be the property of the District and subject to public inspection. A regular office shall be established and maintained within the District for the conduct of its business. All records and accounts shall conform to approved methods of bookkeeping. The Board shall cause to be made and completed annually, as soon as practicable after the expiration of each calendar year, an audit of the books of account and financial records of the District for such calendar year, such audit to be made by an individual public accountant or firm of public accountants. The report on said audit shall be submitted at the first regular meeting of the Board of Directors thereafter. One copy of said report shall be filed with the office of the District, one with the depository of the District, and one in the office of the auditor, all of which shall be open to public inspection. Additional copies of said report shall be filed with any state or governmental agencies as may be required by law.

Sec. 3. District Powers. The District herein created shall be and is hereby empowered to develop an adequate supply of fresh water and to process, transport and distribute same for municipal, domestic, irrigation and industrial purposes, but the District shall not have the power to construct or maintain a sewer system. All works, improvements and facilities to be provided by the District shall be limited to those found necessary and useful in developing a source of and in providing and distributing fresh water. It is the intention of the Legislature that the District herein created shall have all the power and authority necessary to fully qualify and gain the benefits of any and all laws which may be deemed helpful to it in carrying out the purposes for which the District is created, and the provisions of all such laws of which the District may determine to avail itself are hereby adopted by this reference and are made applicable to the District.

Without limiting the generality of the foregoing, the District shall and is hereby empowered to exercise the following powers, privileges and functions:

(1) To develop, construct, lease or purchase dams, reservoirs, underground and other sources of water, and such other facilities necessary or useful for the purpose of providing a source of water supply and storing and processing such water and transporting and distributing it for municipal, domestic, irrigation and industrial purposes. The District is also authorized to purchase water or a water supply from any person, firm, corporation or public agency, from the United States government or any of its agencies. The District may, within the discretion of its Board of Directors, contract and combine with one (1) or more large users of water to acquire a joint water supply or an agreed allocation of water storage or may contract independently for the District's water supply. The District is further authorized to acquire water appropriation permits directly from the Texas Water Commission, or from owners of permits;

(2) To dispose of property or rights therein when the same are no longer needed for the purposes for which the District is created or to lease same for purposes which will not interfere with the use of property of the District;

(3) To cooperate with and contract with the United States of America, or with any of its departments or agencies now existing, or which may be

created hereafter, to carry out any of the powers or to further any of the purposes set forth in this Act, and, for such purposes, to receive grants, loans or advancements therefrom; or to contribute to the United States of America or any of its departments or agencies in connection with any project undertaken by it affecting or relating to any of the purposes for which the District is organized;

(4) To cooperate and contract with any department or agency of the State of Texas, or any political subdivision thereof, or any municipal corporation, to carry out any purpose for which the District is organized;

(5) To make or cause to be made surveys and engineering investigations for the information of the District to facilitate the accomplishment of the purposes for which the District is created; to employ a general manager, attorneys, accountants, engineers, financial experts, or other technical or non-technical employees or assistants; fix the amount and manner of their compensation; and provide for the payment of all expenditures deemed essential to proper organization and investigations and for the operation and maintenance of the District and its affairs;

(6) To sue and be sued in the name of the District and all courts shall take judicial notice of the establishment of the District;

(7) To make bylaws for the management and regulation of the District's affairs;

(8) To adopt, use and alter a corporate seal;

(9) To construct all necessary works and improvements over, across and along any public stream, road, highway or any land belonging to the State of Texas, provided that the plans for such improvements on State Highways shall be subject to the approval of the State Highway Department;

(10) To exercise all functions to permit the accomplishment of its purposes including the acquisition within or without said District of land, easements and rights-of-way and any other character of property incident to, helpful or in aid of carrying out the purposes and work of the District by way of device, purchase leasehold or condemnation. The right of eminent domain is hereby expressly conferred on said District and the procedure with reference to condemnation, the assessment of and estimating of damages, payment, appeal, the entering upon the property pending appeal and other procedure prescribed in Title 52 of the Revised Civil Statutes of Texas, 1925, as heretofore or hereafter amended, shall apply to said District. It is provided, however, that the powers of eminent domain herein granted shall be limited in their application to the County of Aransas, Texas, only; provided, however, the power of eminent domain shall not apply to any existing or future private water supply. In the event the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder makes necessary the taking of any property or the relocation, raising, rerouting or changing the grade, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary taking, relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the expense of the District. It is provided, however, that the expense of the District shall be strictly confined to that amount which is equal to the actual cost of the property taken or work required without enhancement thereof and after deducting the net salvage value which may be derived from any property taken; and

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(11) To do any and all other acts or things necessary or proper to carry into effect the purpose for which the District is created and organized.

Sec. 4. Awarding Construction or Purchase Contracts. Any construction contract or contracts for the purchase of materials, equipment or supplies requiring an expenditure of more than Two Thousand Dollars (\$2,000) shall be made to the lowest and best bidder after publication of a notice to bidders once a week for two (2) weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and shall state where and the terms upon which copies of the plans and specifications may be obtained. The publication shall be in a newspaper published in Aransas County and designated by the Board of Directors. This Section, however, shall not apply to the purchase of any water, or water system or facilities in existence at the time of such purchase.

Sec. 5. May Issue Bonds. (a) For the purpose of providing funds for an engineering study of the District's present and future requirements for fresh water and possible sources thereof, the District is hereby empowered to borrow money and issue its negotiable bonds to be payable from ad valorem taxes. It is provided, however, that the foregoing project shall be completed within the five (5) year period immediately following the effective date of this Act and at a total cost not exceeding Seventy Thousand Dollars (\$70,000) and it is provided further, that the amount of tax to be levied annually for this purpose shall not exceed fifty cents (50¢) on each One Hundred Dollars (\$100) valuation of taxable property.

(b) For the purpose of providing funds for purchasing or otherwise providing works, plants, facilities or appliances necessary to the accomplishment of the purposes authorized by this Act, and for the purpose of carrying out any other power or authority conferred by this Act, the District is hereby empowered to borrow money and issue its negotiable bonds payable from such revenues of the District, as are pledged by resolution of the Board of Directors. The District shall have no power to levy or collect taxes or assessments, or to issue any bonds or create any indebtedness payable out of taxes or assessments, except as provided for in Section 5 (a), and nothing in this subsection or in any other Section or subsection of this Act shall be construed as authorizing it to do so.

(c) Pending the issuance of definitive bonds the Board may authorize the delivery of negotiable interim bonds or notes eligible for exchange or substitution by use of definitive bonds. Such bonds shall be issued in the name of the District, signed by the President, attested by the Secretary, and shall bear the seal of the District. It is provided, however, that the signatures of the President or of the Secretary, or of both, may be printed or lithographed on the bonds authorized by the Board of Directors, and that the seal of the District may be impressed on the bonds or may be printed or lithographed thereon. The bonds shall mature serially or otherwise, in not to exceed forty (40) years and may be sold at a price and under terms as determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the District, calculated by the use of standard bond interest houses, does not exceed six per cent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

(d) Bonds may be issued in one or more than one series, and from time to time, as required for carrying out the purposes of this Act.

(e) The bonds may be secured by a pledge of all or part of the net revenues of the District, or by the net revenues of any one or more contracts theretofore or thereafter made or other revenues and income specified by the resolution of the Board of Directors or in the trust indenture. Any such pledge may reserve the right, under conditions therein specified, to issue additional bonds which would be on a parity with or subordinate to the bonds then being issued. The term "net revenues" as used in this Section shall mean the gross revenues of the District after deduction of the amount necessary to pay reasonable cost of maintaining and operating the District and its properties.

(f) Where bonds are issued, payable wholly or partially from ad valorem taxes, it shall be the duty of the Board of Directors to levy, assess and cause to be collected a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, and in levying such tax shall take into consideration reasonable delinquencies and costs of collection. In case of bonds payable partially from ad valorem taxes, the rate of the tax for any year may be fixed after giving consideration to the money reasonably to be received from the pledged revenues available for payment of principal and interest and to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

(g) Where bonds payable wholly from revenues are issued, it shall be the duty of the Board of Directors to fix, establish and from time to time as necessary revise, the rates of compensation for the sale of water and other services furnished, supplied and rendered by the District and collect same in amounts sufficient to pay the expenses of operating and maintaining the facilities of the District and to pay the bonds as they mature and the interest as it accrues, and to maintain the reserve and other funds as provided in the resolution authorizing the bonds. Where bonds payable partially from revenues are issued, it shall be the duty of the Board to fix, establish and from time to time as necessary revise the rates of compensation for the sale of water and other services furnished, supplied and rendered by the District and to collect same in amounts sufficient to assure compliance with the resolution authorizing the bonds.

(h) From the proceeds of the sale of bonds, the District may set aside an amount for the payment of interest expected to accrue during the study or construction or both, and a reserve interest and sinking fund, and such provision may be made in the resolution authorizing the bonds. Proceeds from the sale of bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which the bond is issued, including the expense of issuance and sale of the bonds; however, proceeds from the sale of revenue bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purpose for which the District is created, including expenses of its organization and engineering study. The proceeds from the sale of any bonds may be placed on time deposit with the District's depository bank or may be temporarily invested in direct obligations of the United States government maturing in not more than one (1) year from the date of investment.

(i) In the event of a default or a threatened default in the payment of principal or of interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, upon petition of the holders of the outstanding bonds, appoint a receiver with authority to collect

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

and receive all income of the District except taxes, employ and discharge agents and employees of the District, take charge of funds on hand (except funds received from taxes unless commingled) and manage the proprietary affairs of the District without consent or hinderance by the Directors. Such receiver may also be authorized to sell or make contracts for the sale of water or other services furnished by the District or renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds. The resolution authorizing the issuance of the bonds or the trust indenture securing them may limit or qualify the rights of less than all of the outstanding bonds payable from the same source to institute or prosecute any litigation affecting the District's property or income.

(j) The Texas Water Commission shall upon request from the District assist the District in the preparation and planning of the engineering study to be made within the District. However, before any tax bonds are issued, the District shall submit the contract covering the proposed engineering study to the Texas Water Commission for approval and if any substantial changes are thereafter made in such contract, the changes shall also be submitted to said Commission for approval. It is further provided, that before issuing any construction or improvement bonds, the District shall also submit the plans and specifications thereon to the Texas Water Commission (successor to the State Board of Water Engineers) for approval in the manner required by Acts of the 57th Legislature, Regular Session, Chapter 336, 1961, codified in Vernon's Annotated Civil Statutes of Texas as Article 7880—139, and the District's project and improvements during the course of construction shall be subject to inspection in the manner provided for by Article 7880—139.

Sec. 6. Refunding Bonds Authorized. The District is authorized to issue refunding bonds for the purpose of refunding any of the outstanding bonds authorized by this Act and the interest thereon. Such refunding bonds may be issued to refund more than one (1) series of outstanding bonds and combine the pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues and mortgage liens. The provisions of this law with reference to the issuance by the District of other bonds, their security, and their approval by the Attorney General and the remedies of the holder shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller of Public Accounts of the State of Texas upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds were payable in the manner prescribed by Article 717k, Revised Civil Statutes of Texas, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of and interest on the original bonds to their effective option date or maturity date; and the Comptroller shall register them without concurrent surrender and cancellation of the original bonds.

Sec. 7. Provisions for Trust Indenture as to Bonds Secured Partially by Revenues. Any bonds (including revenue bonds) authorized by this Act, not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers, situated either within or without the State of Texas. Such bonds, within the discretion of the Board of Directors, may be additionally secured by a deed of trust or mortgage lien upon physical prop-

erties of the District and all franchises, easements, water rights and appropriation permits, leases and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties and all other powers and authority for the further security of the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain any provisions prescribed by the Board of Directors for the security of the bonds and the preservation of the trust estate, and may make provision for amendment or modification thereof and the issuance of bonds to replace lost or mutilated bonds, and may condition the right to expend District money or sell District property upon approval of a registered professional engineer selected as provided therein, and may make provision for the investment of funds of the District. Any purchaser under a sale under the deed of trust lien, where one is given, shall be the absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate the same.

Sec. 8. Bond Elections. (a) No bonds payable wholly or partially from ad valorem taxes (except refunding bonds) shall be issued unless authorized by an election at which only the qualified voters, who reside in the District and own taxable property therein and have duly rendered the same for taxation and unless a majority of votes cast is in favor of the issuance of the bonds. Bonds not payable wholly or partially from ad valorem taxes may be issued without an election.

(b) Such bond elections may be called by the Board of Directors without a petition. The resolution calling the election shall specify the time and place or places of holding the same, the purpose for which the bonds are to be issued, the maximum amount thereof, the maximum interest rate, the maximum maturity thereof the form of the ballot, and the presiding judge for each voting place. The presiding judge serving at each voting place shall appoint one (1) assistant judge and at least two (2) clerks to assist in holding such election. Notice of election for the issuance of bonds shall be given by publication of a substantial copy of the resolution calling the election in a newspaper of general circulation in the District once each week for at least four (4) consecutive weeks, the first publication to appear not less than twenty-eight (28) days prior to the date assigned for the election. The returns of the election shall be made to and canvassed by the Board of Directors of the District. Except as herein otherwise provided the General Laws relating to elections shall be applicable.

Sec. 9. Bonds to be approved by the Attorney General of Texas. After any bonds (including refunding bonds) are authorized by the District, such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a contract theretofore made between the District and any city or other governmental agency, authority or district, a copy of such contract and the proceedings of the city or other governmental agency, authority or district authorizing such contract shall also be submitted to the Attorney General. If such bonds have been authorized and if such contracts have been made in accordance with the Constitution and laws of the State of Texas, he shall approve the bonds and such contracts and the bonds shall then be registered by the Comptroller of Public Accounts. Thereafter the bonds, and the contracts, if any, shall be valid and binding and shall be incontestable for any cause.

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

Sec. 10. Taxes and Tax Elections Authorized. The Board of Directors may upon a favorable majority vote of the qualified property taxpaying electors of the District, voting at an election held for the purpose within the boundaries of such District, levy, assess and collect annual taxes to provide funds necessary for an engineering study of the District's present and future requirements for fresh water and possible sources thereof and also when so authorized may levy, assess and collect annual taxes within the tax limits provided for in Section 5(a) hereof, to provide funds adequate to defray the cost of such a study as contracted for by the District. Elections for the levy of such taxes shall be ordered by the Board of Directors and notice thereof shall be given and same shall be held and conducted and the results thereof determined in the manner provided herein with relation to elections for the authorization of bonds. All taxes levied by the District for any purpose shall constitute a lien on the property against which levied and limitation shall not bar the enforcement or collection thereof. In calling an election for taxes under this Section 10, the Board of Directors shall specify the maximum rate of tax which is sought to be levied and no tax in excess of that amount may be levied without submitting the question of the increased rate of taxation at an election as provided.

Sec. 11. Bonds Eligible for Investment and to Secure Deposits. All bonds of the District shall be and are hereby declared to be legal and authorized investments for banks, saving banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns and villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies, including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political subdivisions or corporations of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Sec. 12. District Depository. The Board of Directors shall designate one or more banks within the District to serve as depository for the funds of the District. All funds of the District shall be deposited in such depository bank or banks except that sufficient funds shall be remitted to the bank or banks of payment of principal of and interest on the outstanding bonds of the District and in time that such may be received by the said bank or banks of payment on or prior to the date of the maturity of such principal and interest so to be paid. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of county funds. Membership on the Board of Directors of an officer or director of a bank shall not disqualify such bank from being designated as depository.

Sec. 13. District and Bonds Exempt from Taxation. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state and for the improvement of their properties and the industries, the District in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income there-

from, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 14. District Authorized to Enter into Water Supply Contracts. The District is authorized to enter into contracts with cities and others for supplying water services to them. The District may also contract with any city for the rental or leasing, or for the operation of such city's water production, water supply, water filtration, or purification facilities. Any such contract may be upon such terms, for such consideration and for such time as the parties may agree and it may provide that it shall continue in effect until bonds specified therein and any refunding bonds issued in lieu of such bonds are paid.

Sec. 15. District Empowered to Acquire Storage Capacity in Reservoirs. The District is hereby empowered to lease or acquire rights in and to storage and storage capacity in any reservoir constructed or to be constructed by any person, firm, corporation, the State of Texas, or any public agency thereof, or by the United States government or any of its agencies. The District is also empowered to purchase or make contracts for the purchase of storage, or water or a water supply from any person or firm, corporation, the State of Texas, or any public agency thereof, or from the United States government or from any of its agencies.

Sec. 16. Levy, Assessment and Collection of Taxes. District taxes shall be assessed at the same value as that used for county and state purposes and collected in the same manner as provided by law with relation to county taxes, using the county tax rolls. The Tax Assessor-Collector of Aransas County shall be charged with and required to accomplish the assessment and collection of all taxes levied by and on behalf of the District and to promptly pay over the same to the District depository. For his services the County Tax Assessor-Collector shall be allowed such compensation as may be provided for by contract with the District but not to exceed the amount allowed for assessment and collection of county taxes. The bond of the County Tax Assessor-Collector shall stand as security for the proper performance of his duties as Assessor-Collector of the District or, if in the judgment of the District Board of Directors it is necessary, additional bond payable to the District may be required. In all matters pertaining to the assessment and collection of taxes for the District the County Tax Assessor-Collector shall be authorized to act and shall be governed by the laws of the State of Texas relating to state and county taxes except as herein otherwise provided and suits may be brought for the collection of such taxes and the enforcement of tax liens under the same authority. Should the County Assessor-Collector fail or refuse to give any additional bond required by the District within the time prescribed by law he shall be suspended from office by the Commissioners Court of Aransas County and immediately thereafter removed from office in the mode prescribed by law. It shall be the further duty of the Tax Assessor-Collector to make a certified list of all delinquent property on which the District taxes have not been paid and return same to the Board of Directors which shall proceed to have the same collected by the sale of the delinquent property, in the same manner, both by suit and otherwise, as is provided for the sale of property for the collection of State and County taxes; and at any such sale the District may become the purchaser of such property.

Sec. 17. District Declared Essential. The Legislature hereby declares that the enactment hereof is in fulfillment of a duty conferred upon it by Section 59 of Article XVI of the Constitution of the State of Texas wherein it is required to pass such laws as may be appropriate in the preservation

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

and conservation of the natural resources of the state; that the District herein created is essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the state and the public at large are interested. All the terms and provisions of this Act are to be liberally construed to effectuate the purposes herein set forth.

Sec. 18. Saving Clause. Nothing in this Act shall be construed to violate any provision of the federal or state constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions the District shall have the power by resolution to provide an alternative procedure conformable to such constitutions. If any provision of the Act shall be invalid, such fact shall not affect the creation of the District or the validity of any other provision of this Act, and the Legislature hereby declares that it would have created the District and enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof. Acts 1963, 58th Leg., p. 882, ch. 337.

Emergency. Effective May 31, 1963.

TITLE 130—WORKMEN'S COMPENSATION LAW**PART 1.****Art. 8306. Damages and compensation for personal injuries****Sec. 2. Application of law; exceptions**

Sec. 2. The provisions of this law shall not apply to actions to recover damages for personal injuries nor for death resulting from personal injuries sustained by domestic servants, farm laborers, ranch laborers, nor to employees of any firm, person or corporation having in his or their employ less than three (3) employees nor to the employees of any person, firm or corporation operating any steam, electric, street, or interurban railway as a common carrier. Any employer of three (3) or more employees at the time of becoming a subscriber shall remain a subscriber subject to all the rights, liabilities, duties and exemptions of such, notwithstanding after having become a subscriber the number of employees may at times be less than three (3). In determining the number of persons employed, under this Section, by any firm, person or corporation, persons employed both within and without the State of Texas shall be counted regardless of whether the firm, person or corporation is resident within or without the State of Texas. As amended Acts 1963, 58th Leg., p. 503, ch. 188, § 1.

Sec. 2a. Nonresidents; employment of labor; service of process on Chairman of Industrial Accident Board

Sec. 2a. The acceptance by a nonresident of this State of the rights, privileges and benefits extended by law to such persons of employing labor within the State of Texas shall be deemed equivalent to an appointment by such nonresident of the Chairman of the Industrial Accident Board of this State, or his successor in office, to be his true and lawful attorney and agent upon whom may be served all lawful process in any civil action or proceeding now pending or hereafter instituted against said nonresident growing out of any accident resulting in the injury or death of any employee of said nonresident, occurring in the course of employment of the employee in this State, when the action or proceeding is brought by the employee, his heirs or legal representative. Service of process under this Section shall be in the same manner and method as that prescribed in Chapter 125, Acts of the Forty-first Legislature, Regular Session, 1929, as last amended by Chapter 502, Acts of the Fifty-sixth Legislature, Regular Session, 1959 (compiled as Article 2039a of Vernon's Texas Civil Statutes), which relates to citation of nonresident motor vehicle operators by serving the Chairman of the State Highway Commission. Added Acts 1963, 58th Leg., p. 503, ch. 188, § 2.

Sec. 3. Exclusiveness of remedy; exemption of compensation from legal process; assignability; recovery from third persons; liability of subscriber

Sec. 3. The employees of a subscriber and the parents of minor employees shall have no right of action against their employer or against any

agent, servant or employee of said employer for damages for personal injuries, and the representatives and beneficiaries of deceased employees shall have no right of action against such subscribing employer or his agent, servant or employee for damages for injuries resulting in death, but such employees and their representatives and beneficiaries shall look for compensation solely to the association, as the same is hereinafter provided for. All compensation allowed under the succeeding sections herein shall be exempt from garnishment, attachment, judgment and all other suits or claims, and no such right of action and no such compensation and no part thereof or of either shall be assignable, except as otherwise herein provided, and any attempt to assign the same shall be void. If an action for damages on account of injury to or death of an employee of a subscriber is brought by such employee, or by the representatives or beneficiaries of such deceased employee, or by the association for the joint use and benefit of itself and such employee or such representatives or beneficiaries, against a person other than the subscriber, as provided in Section 6a, Article 8307, Revised Civil Statutes of Texas, 1925, and if such action results in a judgment against such other person, or results in a settlement by such other person, the subscriber, his agent, servant or employee, shall have no liability to reimburse or hold such other person harmless on such judgment or settlement, nor shall the subscriber, his agent, servant or employee, have any tort or contract liability for damages to such other person because of such judgment or settlement, in the absence of a written agreement expressly assuming such liability, executed by the subscriber prior to such injury or death. No part of this Section is intended to lessen or alter the employees existing rights or cause of action either against his employer, its subscriber, or any third party.

The Association, its agent, servant or employee, shall have no liability with respect to any accident based on the allegation that such accident was caused or could have been prevented by a program, inspection, or other activity or service undertaken by the association for the prevention of accidents in connection with operations of its subscriber; provided, however, this immunity shall not affect the liability of the association for compensation or as otherwise provided in this law. No part of this Section is intended to lessen or alter the employees existing rights or cause of action either against his employer, its subscriber, or any third party. As amended Acts 1963, 58th Leg., p. 1132, ch. 437, § 1.

PART 2.

Art. 8309f. Texas Technological College Directors, Workmen's Compensation Insurance for employees under

Laws Governing

Sec. 7. Unless otherwise provided herein, Sections 1, 6, 7, 7b, 7c, 7e, 8, 8a, 8b, 9, 10, 11, 11a, 12, 12a, 12b, 12c, 12d, 12e, 12f, 12i, 13, 15, 15a, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26 and 27 of Article 8306, Revised Civil Statutes of Texas, 1925, as amended or as they may hereafter be amended; Chapter 248, Acts of the 42nd Legislature, Regular Session, 1931 (compiled as Article 8306a of Vernon's Texas Civil Statutes), as amended or as it may hereafter be amended; Sections 4a, 6a, 11, 12, 13 and 14 of Article 8307, Revised Civil Statutes of Texas, 1925, as amended or as they may hereafter be amended; and Sections 4 and 5 of Article 8309, Revised Civil Statutes of Texas, 1925, as amended or as they may hereafter be amended,

are adopted and shall govern where applicable. However, when in the above adopted Sections of Articles 8306, 8307 and 8309 of the Revised Civil Statutes of Texas, 1925, the words "association," "subscriber," "employer" or their equivalent appear, they shall mean "the institution." As amended Acts 1963, 58th Leg., p. 491, ch. 178, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

PENAL CODE

TITLE 4—OFFENSES AGAINST THE STATE, ITS TERRITORY, AND REVENUE

CHAPTER SIX—PERSONAL PROPERTY OF THE STATE

Art. 147b—1. Damage or removal of archaeological or vertebrate paleontological sites [New].	Art. 147b—2. Destruction or removal of historical structure, marker or artifact [New]
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Art. 147b—1. Damage or removal of archaeological or vertebrate paleontological sites

Section 1. It shall be unlawful for any person to wilfully excavate in or upon or to disturb, deface, disfigure, damage, destroy or remove any historic or prehistoric ruin, burial ground, archaeological or vertebrate paleontological site, or site including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological feature or any historical marker, medallion or monument, or other historical feature situated on lands owned or controlled by the State of Texas, or any agency thereof, without previously complying with the provisions of Chapter 32, Acts of the 42nd Legislature, First Called Session, 1931, and Chapter 1, Page 60, Archaeology Title, Acts of the 46th Legislature, General Laws, 1939 (compiled as Articles 147a and 147b of Vernon's Texas Penal Code).

Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) or shall be confined in the county jail for a period of time not more than thirty (30) days or be punished by both fine and imprisonment. Acts 1963, 58th Leg., p. 434, ch. 153.

Emergency. Effective May 14, 1963.

Art. 147b—2. Destruction or removal of historical structure, marker or artifact

Section 1. It shall be unlawful for any person, not being the owner thereof, and without lawful authority, to wilfully injure, disfigure, remove or destroy any historical structure, monument, marker, medallion, or artifact.

Sec. 2. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) or shall be confined in the county jail for a period of time not more than thirty (30) days or be punished by both fine and imprisonment. Acts 1963, 58th Leg., p. 519, ch. 193.

Effective 90 days after May 24, 1963, date of adjournment.

County historical survey committee, see Vernon's Ann.Civ.St. art. 6145.1.

Appropriations for county historical markers, monuments and medallions, see Vernon's Ann.Civ.St. art. 2372r.

Texas state historical survey committee, see Vernon's Ann.Civ.St. art. 6145.

TITLE 5—OFFENSES AFFECTING THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENT OF THE GOVERNMENT

CHAPTER ONE—BRIBERY

Art. 159. 175, 126 Officers accepting bribe

Attorney general, acceptance or use of money to investigate or prosecute matters, see Vernon's Ann.Civ.St. art. 4413a.

TITLE 6—OFFENSES AFFECTING THE RIGHT OF SUFFRAGE

CHAPTER TWO—POLL TAX

Art.

200a. False statements to procure poll tax receipt or exemption certificate
[New]

Art. 200a. False statements to procure poll tax receipt or exemption certificate

Any person who knowingly makes any false statement to procure a poll tax receipt or certificate of exemption or who knowingly supplies any false information for use in filling out the blanks on the receipt or certificate shall be deemed guilty of a felony and upon conviction shall be punished by confinement in the state penitentiary not less than one nor more than three years. Added Acts 1963, 58th Leg., p. 1017, ch. 424, § 110.

Effective 90 days after May 24, 1963, date of adjournment.

Exemption certificate, mode of obtaining, see V.A.T.S. Election Code, art. 5.12.

Form of poll tax receipt, see V.A.T.S. Election Code, art. 5.14.

Liability to pay poll tax, see V.A.T.S. Election Code, art. 5.09.

Mode of paying poll tax, see V.A.T.S. Tax-Gen. art. 5.11.

Poll tax, see V.A.T.S. Tax-Gen. art. 2.01.

Poll tax exemption, see V.A.T.S. Election Code, art. 5.10.

**Art. 200a—2. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(c).
Eff. 90 days after May 24, 1963, date of adjournment**

See, now, art. 200a.

CHAPTER THREE—OFFENSES BEFORE ELECTION

**Art. 211. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(b).
Eff. 90 days after May 24, 1963, date of adjournment**

See now V.A.T.S. Election Code art. 14.10.

Art. 212. Pay for editorial matter

If any editor or manager of a newspaper, magazine or journal, or any person having control thereof, demands or receives any money, thing of value, reward or promise of future benefit for publishing anything as editorial matter in advocacy of or opposition to any candidate, or for or against any proposition submitted to a vote of the people, he, and also the one offering such reward, shall be fined not less than five hundred dollars nor more than one thousand dollars, or be imprisoned in jail not less than ten days nor more than thirty days. If the offense be committed by the president of any corporation, or by any officer thereof with the knowledge or consent of its president, in addition to punishment of the individual, its charter shall be forfeited. Either party to a violation of this article may be compelled to testify regarding thereto, but shall not be punished for any act regarding which he may have been required to testify. As amended Acts 1963, 54th Leg., p. 1017, ch. 424, § 111.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 213. 263 Corporation contributing

(d) Any person who violates any provision of this article, or who, as an officer, director or employee of a corporation, or as a member of a partnership or association, authorizes or does any act in violation hereof, shall be fined not less than one hundred dollars nor more than five thousand dollars, or be imprisoned not less than one nor more than five years, or be both so fined and imprisoned. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 112.

Effective 90 days after May 24, 1963, date of adjournment.

**Art. 214. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(b).
Eff. 90 days after May 24, 1963, date of adjournment**

See, now, V.A.T.S. Election Code, art. 14.07, par. (e).

CHAPTER FOUR—OFFENSES BY OFFICERS OF ELECTION**Art. 217. Refusing to permit voter to vote**

Any judge of any election who refuses to receive the vote of any voter who, when his vote is objected to, shows by his own oath and the oath of a well-known resident of the precinct that he is entitled to vote at such election and in such precinct, or who refuses to deliver an official ballot to one entitled to vote under the law, or who refuses to permit a voter to deposit his ballot after one entitled to vote has legally folded and returned same, shall be fined not to exceed five hundred dollars. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 113.

Effective 90 days after May 24, 1963, date of adjournment.

**Art. 224. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(b).
Eff. 90 days after May 24, 1963, date of adjournment**

See, now, art. 225 and V.A.T.S. Election Code arts. 8.13, 8.13a.

Art. 225. 258 Aid to voter

Any judge or clerk at an election who assists any voter to prepare his ballot except when a voter is unable to prepare the same himself because of some bodily infirmity such as renders him unable to write or to see, or who is assisting a voter in the preparation of his ballot prepares the same otherwise than as the voter directs, or who suggests by word or sign or gesture how such voter shall vote, shall be fined not less than two hundred dollars nor more than five hundred dollars or be confined in jail for not less than two nor more than twelve months, or both. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 114.

Effective 90 days after May 24, 1963, date of adjournment.

Aid to voter and use of English language, see V.A.T.S. Election Code, arts. 8.13, 8.13a.

CHAPTER FIVE—ILLEGAL VOTING

Art. 240. Participating in primary elections or conventions of more than one party

Whoever votes or offers to vote at a primary election or participates or offers to participate in a convention of a political party, having voted at a primary election or participated in a convention of any other party during the same election year, shall be fined not less than one hundred dollars nor more than five hundred dollars. As used in this article, the term 'election year' means the period from the first day of February through the following thirty-first day of January. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 115.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER SIX—OFFENSES AFTER ELECTION

Art. 244. Altering or destroying ballots, etc.

If any person shall willfully alter, obliterate, or suppress any ballots, election returns or certificates of election, or shall willfully destroy any ballots or election returns except as permitted by law, he shall be confined in the penitentiary not less than three nor more than five years. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 116.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 250. Destruction of ballots

If any county clerk or other officer charged with the custody of the ballots cast at an election shall fail, after the expiration of sixty days from the date of such election, to destroy by burning all the ballots cast at such election which may have come into his custody, except where a contest or criminal investigation in connection with the election is pending or where ordered by the district court to defer destruction of the ballots, he shall be fined not less than fifty nor more than five hundred dollars, and, in addition thereto, he may be imprisoned in jail not exceeding six months. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 117.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 251. Repealed. Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(b).

Eff. 90 days after May 24, 1963, date of adjournment

See, now, art. 250.

**CHAPTER SEVEN—RIOTS AND UNLAWFUL ASSEMBLIES
AND MISCONDUCT AT ELECTIONS****Art. 259. Electioneering near polls**

Whoever shall do any electioneering or loitering within one hundred feet of the entrance of the place where an election is being held, or shall operate a sound truck either as the driver of the vehicle or as the speaker or the operator of the sound equipment, within one thousand feet of a polling place during the hours the polls are open for the purpose of making any political speeches or electioneering for or against any candidate or proposition, or shall hire any vehicle for the purpose of conveying voters to the polling place, or shall willfully remove any ballots from the polling place, except as permitted by law, shall be fined not exceeding five hundred dollars. As amended Acts 1963, 58th Leg., p. 1017, ch. 424, § 118.

Effective 90 days after May 24, 1963, date
of adjournment.

TITLE 7—RELIGION AND EDUCATION

CHAPTER TWO—SUNDAY LAWS

Art.
286a. Application of article 286 to bowling
alleys [New].

Art. 285. Horse racing or gaming on Sunday

Any person who shall run or be engaged in running any horse race, or who shall be engaged in match shooting or any species of gaming for money or other consideration, within the limits of any city or town on Sunday, shall be fined not less than Twenty Dollars (\$20) nor more than Fifty Dollars (\$50). As amended Acts 1963, 58th Leg., p. 95, ch. 55, § 1.

Effective 90 days after May 24, 1963, date of adjournment. Acts 1963, 58th Leg., p. 95, ch. 55, § 2 added article 286a.

Art. 286. 302, 199, 186 Selling goods on Sunday

Acts 1963, 58th Leg., p. 95, ch. 55, § 2 amended the Penal Code by adding a new article 286a which makes the provisions of this article inapplicable to bowling alleys.

Art. 286a. Application of article 286 to bowling alleys

The provisions of Article 286, Penal Code of Texas, 1925, shall not be applicable to bowling alleys. Added Acts 1963, 58th Leg., p. 95, ch. 55, § 2.

Another article having the same number was enacted by Acts 1961, 57th Leg., 1st C.S., p. 38, ch. 15.

Acts 1963, 58th Leg., p. 95, ch. 55, § 1, amended article 285.

CHAPTER THREE—TEACHERS AND SCHOOLS

Art. 297. School attendance requirements

Every child in this State who is seven (7) years and not more than sixteen (16) years of age, other than a high school graduate, shall be required to attend the public schools in the district of its residence, or in some other district to which it may be transferred as provided by law, for the entire regular school term of the district in which said child attends school. As amended Acts 1963, 58th Leg., p. 937, ch. 367, § 2.

Effective 90 days after May 24, 1963, date of adjournment. Civil provisions, see Vernon's Ann.Civ. St. art. 2892.

TITLE 8—OFFENSES AGAINST PUBLIC JUSTICE

CHAPTER SEVEN—FAILURE OF DUTY

Art. 427b. County clerk's failure of duty as to recording plats

Saved From Repeal

Acts 1963, 58th Leg., p. 447, ch. 160, enacting the Municipal Annexation Act (Vernon's Ann.Civ.St. art. 970a) provides in Article III of the Act that it shall not repeal Acts 1927, 40th Leg., ch. 231, as amended, (Article 427b and Vernon's Ann.Civ.St. art. 974a) unless expressly inconsistent with the Act, and then only to the extent of such inconsistency.

TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE

CHAPTER THREE—AFFRAYS AND DISTURBANCES OF THE PEACE

Art. 478. 205 Drinking liquor on train

Operation of aircraft while intoxicated,
see art. 1137b—1.

CHAPTER FOUR—UNLAWFULLY CARRYING ARMS

Reporting treatment of gunshot wound
indicating violence, see art. 782c.

**TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND
ECONOMY****CHAPTER ONE—BANKING****Art. 567b. Giving check, draft or order without sufficient funds****Unlawful acts**

Section 1. It shall be unlawful for any person or firm to make, draw, utter or deliver, or to cause or direct the making, drawing, uttering or delivering, with intent to defraud, any check, draft or order for the payment of money on any bank, person, firm or corporation knowing that the maker, drawer or payor does not have sufficient funds in or on deposit with such bank, person, firm or corporation for the payment in full of such check, draft or order, as well as all other outstanding checks, drafts or orders upon such funds then outstanding.

Payment of wages or salaries for personal services

Sec. 1a. [Omitted by amendment].

Prima facie evidence

Sec. 2. As against the maker or drawer thereof, or the person causing the making, drawing, uttering or delivering of any check, draft or order, the making, drawing, uttering or delivering, or causing or directing the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, such bank, person, firm or corporation, provided such maker or drawer shall not have paid the holder thereof the amount due thereon, within ten (10) days after giving of such notice that such check, draft or order has not been paid by the drawee.

Notice

Sec. 3. Notice as used herein shall be notice in writing sent by registered or certified mail or telegram addressed to such person or to such person and firm at the place listed on the check, draft or order, and proof of compliance with this Section shall constitute prima facie evidence that such notice was given.

Penalties

Sec. 4. (a) For the first conviction of a violation of this Act, in the event the amount of the check, draft or order given on any bank, person, firm or corporation is less than Fifty Dollars (\$50), punishment shall be by imprisonment in the county jail for not exceeding two (2) years, and by a fine not exceeding One Thousand Dollars (\$1,000).

(b) If it be shown on the trial of a case involving a violation of this Act in which the check, draft or order given on any bank, person, firm or corporation is less than Fifty Dollars (\$50) that the defendant has been once before convicted of the same offense, he shall, on his second conviction, be punished by confinement in the county jail for not less than thirty (30) days nor more than two (2) years, and by a fine not exceeding Two Thousand Dollars (\$2,000).

(c) If it be shown upon the trial of a case involving a violation of this Act where the amount of the check, draft or order is less than Fifty Dollars (\$50), that the defendant has two (2) or more times before been convicted of the same offense, regardless of the amount of the check, draft or order involved in the first two (2) convictions, upon the third or any subsequent conviction, the punishment shall be by confinement in the penitentiary for not less than two (2) nor more than ten (10) years.

(d) For a violation of this Act, in the event the amount of the check, draft or order is Fifty Dollars (\$50) or more, punishment shall be by confinement in the penitentiary for not less than two (2) years nor more than ten (10) years.

Process and witnesses

Sec. 5. In all prosecutions under this Act, process shall be issued and served in the county or out of the county where prosecution is pending and have the same binding force and effect as though the offense being prosecuted were a felony; and all officers issuing and serving such process in or out of the county wherein the prosecution is pending, and all witnesses from within or without the county wherein the prosecution is pending shall be compensated in like manner as though the offense were a felony in grade.

Suggestion for dismissal by complaining witness; penalty

Sec. 6. If any person who has theretofore filed a complaint with any district or county attorney of this State alleging a violation of this Act, or who has furnished information to any such district or county attorney which has resulted in the acceptance by such district or county attorney of such complaint, or who has testified concerning such a violation before a grand jury of this State which has thereafter returned an indictment on such violation, shall suggest to or request the county or district attorney in charge of such prosecution, that such case be dismissed, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than One Hundred Dollars (\$100), nor more than Five Hundred Dollars (\$500). As amended Acts 1963, 58th Leg., p. 729, ch. 268.

Effective 90 days after May 24, 1963, date of adjournment.

Section 2 of the 1963 Amendatory Act was a severability provision.

Section 1a, omitted in 1963, was added by Acts 1957, 55th Leg., p. 69, ch. 33, § 1.

Sale of checks act, see Vernon's Ann.Civ. St. art. 489d.

CHAPTER SIX—GAMING

Art. 653. Repealed. Acts 1963, 58th Leg., p. 114, ch. 65, § 3. Eff. 90 days after May 24, 1963, date of adjournment

Acts 1963, 58th Leg., p. 114, ch. 65, § 1 amended V.A.T.S. Tax-Gen. art. 19.01 by adding thereto a section (10) which levied an annual occupation tax on billiard tables and which authorized cities and towns to

prohibit, regulate or control persons owning or operating billiard tables. Section 2 of the Act of 1963 was a severability provision. Section 3 of the Act of 1963 also repealed Vernon's Ann.Civ.Stats., art. 4668.

CHAPTER EIGHT—TEXAS LIQUOR CONTROL ACT

Art. 666—15. Classification of permits

(7b) United States Bonded Liquor Export Permit. A United States Bonded Liquor Export Permit shall authorize the holder thereof to:

(a) Purchase liquor in bond from holders of Texas Wholesalers' Permits or purchase liquor from distillers, brewers, wineries, wine bottlers, rectifiers, and manufacturers who are holders of Nonresident Seller's Permits and import into the State of Texas at a United States bonded dock such liquor in transit for exportation purposes.

(b) Transport such liquor from the United States bonded dock at point of entry under United States bond to a United States bonded warehouse within the State of Texas.

(c) Warehouse such liquor under United States bond.

(d) For the purpose of exportation only, solicit orders for, take orders for, and accept payment for any quantity of said liquor in unbroken original containers.

(e) Cause such liquor to be withdrawn from a United States bonded warehouse for exportation, in compliance with United States Custom regulations, and delivered to a public common carrier for transportation, in compliance with such carrier's established rate schedule, into the country of export by such common carrier or by such common carrier's affiliated common carrier in the country of export, for delivery to the purchaser at a designated address outside the continental limits of the United States or for delivery to a named qualified person at a designated address outside the continental limits of the United States.

The annual state fee for a United States Bonded Liquor Export Permit shall be Seven Hundred and Fifty Dollars (\$750).

The privileges authorized by this Section are cumulative and not in lieu of requirements of Federal Law in the conduct of such operations. It is specifically provided, however, that permits under this Section shall not be required for the wholesale export of United States bonded liquor by the holder of any other type of permit which, under existing Statutes and the rules and regulations of the Texas Liquor Control Board, authorizes the wholesale exportation of liquor in compliance with Federal Law. Added Acts 1963, 58th Leg., p. 196, ch. 108, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 196, ch. 108, which amended this article by inserting paragraph (7b), relating to the United States bonded liquor export permit, provided in § 2: "Any person who, on the effective date of this Act, is engaged in the business of exporting bonded liquor from the United States in compliance with Federal regula-

tions may continue to engage in such operation until his application for a permit under this Act has been acted upon, provided, however, that such application is filed within thirty (30) days after the effective date of this Act."

Operation of aircraft while intoxicated, see art. 1137b—1.

Art. 666—32. Local option election

The Commissioners Court of each county in the State, upon proper petition, shall order an election wherein the qualified voters of such county, or of any justice's precinct, or incorporated city or town therein, may by the exercise of local option determine whether or not the sale of alcoholic beverages of one or more of the various types and alcoholic con-

tents shall be prohibited or legalized within the prescribed limits of such county, justice's precinct, or incorporated city or town.

Upon the written application of any ten (10) or more qualified voters of any county, justice's precinct, or incorporated city or town, the County Clerk of such county shall issue to the applicants a petition to be circulated among the qualified voters thereof for the signatures of those qualified voters in such area who desire that a local option election be called therein for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be prohibited or legalized within the prescribed limits of such county, justice's precinct, or incorporated city or town.

An application for a petition seeking an election to legalize the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Application for Local Option Election Petition to Legalize," and shall contain a statement just ahead of the signatures of the applicants, as follows: "It is the hope, purpose and intent of the applicants whose signatures appear hereon to see legalized the sale of alcoholic beverages referred to in the issue set out above." The petition so issued shall clearly state the issue to be voted upon in such election, which shall be the same issue as that set out in the application, and said issue shall be one of those set out in Section 40 of Article I of the Texas Liquor Control Act.¹

An application for a petition seeking an election to prohibit the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Application for Local Option Election Petition to Prohibit," and shall contain a statement just ahead of the signatures of the applicants, as follows: "It is the hope, purpose and intent of the applicants whose signatures appear hereon to see prohibited the sale of alcoholic beverages referred to in the issue set out above." The petition so issued shall clearly state the issue to be voted upon in such election, which shall be the same issue as that set out in the application, and said issue shall be one of those set out in Section 40 of Article I of the Texas Liquor Control Act.

The petition for a local option election seeking to legalize the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Petition for Local Option Election to Legalize," and shall contain a statement just ahead of the signatures of the petitioners, as follows: "It is the hope, purpose and intent of the petitioners whose signatures appear hereon to see legalized the sale of alcoholic beverages referred to in the issue set out above."

The petition for a local option election seeking to prohibit the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Petition for Local Option Election to Prohibit," and shall contain a statement just ahead of the signatures of the petitioners, as follows: "It is the hope, purpose and intent of the petitioners whose signatures appear hereon to see prohibited the sale of alcoholic beverages referred to in the issue set out above."

Each such petition shall show the date of its issue by the County Clerk and shall be serially numbered, and each page of such petition shall bear the same date and serial number, and shall bear the seal of the County Clerk. The County Clerk shall deliver as many copies of said petition as may be required by the applicants, and each copy shall bear the date, number and seal on each page as required in the original. The County Clerk shall keep a copy of each such petition and a record of the applicants

therefor. When any such petition so issued shall within thirty (30) days after the date of issue be filed with the Clerk of the Commissioners Court bearing the actual signatures of as many as twenty-five per cent (25%) of the qualified voters of any such county, justice's precinct, or incorporated city or town, together with a notation showing the residence address of each of the said signers, together with the number that appears on his poll tax receipt or exemption certificate, or a sworn statement that the signer is entitled to vote without holding either a poll tax receipt or an exemption certificate, taking the votes for Governor at the last preceding General Election at which presidential electors were elected as the basis for determining the qualified voters in any such county, justice's precinct, or incorporated city or town, it is hereby required that the Commissioners Court at its next regular session shall order a local option election to be held upon the issue set out in such petition. Such order shall state in its heading and in its text whether the local option election to be held is for the purpose of prohibiting or for the purpose of legalizing the sale of the alcoholic beverages set out in the issue recited in the application and the petition. It shall be the duty of the County Clerk to check the names of the signers of any such petition, and the voting precincts in which they reside, to determine whether or not the signers of such petition are in fact qualified voters in such county, justice's precinct, or incorporated city or town at the time such petition is presented, and to certify to the Commissioners Court the number of qualified voters signing such petition. No signature shall be counted, either by the County Clerk or the Commissioners Court where there is reason to believe it is not the actual signature of the purported signer or that it is a duplication either of name or of handwriting used in any other signature on the petition, and no signature shall be counted unless the residence address of the signer is shown, or unless it is signed exactly as the name of the voter appears on the official copy of the current poll list or the official copy of the current list of exempt voters, if the signer be the holder either of a poll tax receipt or an exemption certificate.

The minutes of the Commissioners Court shall record the date any such petition is presented, the names of the signers thereof, and the action taken with relation to the same. In any election ordered by the Commissioners Court the issue ordered to appear on the ballot shall be the same as that applied for and set out in the petition. No subsequent election upon the same issue shall be held within one year from the date of the last preceding local option election in any county, justice's precinct, or incorporated city or town. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 2; Acts 1955, 54th Leg., p. 484, ch. 138, § 1; Acts 1963, 58th Leg., p. 1196, ch. 478, § 1.

¹ Article 666—40.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 666—37. Canvass of votes

Said court shall hold a special session on the fifth day after holding of said election, or as soon thereafter as practicable, for the purpose of canvassing the votes and certifying the results, and if a majority of the voters favor the issue "Against the legal sale" etc. as to any alcoholic beverages of the various types and alcoholic contents, said court shall immediately make an order declaring the results of said vote and absolutely prohibiting the sale of such prohibited type or types of alcoholic beverages within the political subdivision after thirty (30) days from the date of declaring the results thereof, and thereafter until such time as the qual-

ified voters therein may thereafter at a legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held as prima facie evidence that all provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof.

In any local option election in which it is sought to prohibit the sale of alcoholic beverages in which a majority of the votes cast favor the issue "For the legal sale of" etc., or in any local option election in which it is sought to legalize the sale of alcoholic beverages of one or more of the various types and alcoholic contents or manner of sale not already legal in the political subdivision involved in which a majority of the votes cast favor the issue "Against the legal sale of" etc., then the sale of all alcoholic beverages which were legal in said county, justice's precinct, or incorporated city or town before the holding of such local option election shall continue to be legal. As amended Acts 1953, 53rd Leg., p. 643, ch. 249, § 6; Acts 1963, 58th Leg., p. 1196, ch. 478, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 666—40. Local option elections; submission of issues

Local option elections, see art. 666—32.

Art. 666—42. Seizures; suit for forfeiture; intervention by claimants; sale

Operation of aircraft while intoxicated, see art. 1137b—1.

TITLE 12—PUBLIC HEALTH

CHAPTER ONE—ACTS INJURIOUS TO HEALTH

Art. 696a. Dumping refuse near highway

Unlawful acts

Sec. 2. A. It shall be unlawful for any municipal corporation, private corporation, firm or person to dump, deposit, or leave any refuse, garbage, rubbish or junk on any public highway in this State, or county roads.

B. It shall be unlawful for any municipal corporation, private corporation, firm or person to dump, deposit, or leave any refuse, garbage, rubbish or junk within or nearer than three hundred (300) yards of any public highway in this State, whether the refuse, garbage, rubbish, or junk being dumped, deposited, or left, or the land upon which refuse, garbage, rubbish or junk is dumped, deposited or left belongs to the person or persons so dumping, depositing or leaving it or not.

C. The provisions of Subsection B of this Section shall not apply when such refuse, garbage, rubbish or junk is processed and treated in accordance with rules and standards promulgated by the State Department of Health.

D. The provisions of this Act shall not affect farmers in the handling of anything necessary in the growing, handling and care of livestock, or the erection, operation and maintenance of any and all such improvements that may be necessary in the handling, threshing and preparation of any and all agricultural products.

E. The State Department of Health shall promulgate rules and standards regulating the processing and treating of refuse, garbage, rubbish or junk dumped, deposited or left within or nearer than three hundred (300) yards of any public highway in this State. As amended Acts 1963, 58th Leg., p. 764, ch. 291, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER THREE—DRUGS, NARCOTICS AND POISONS

Art. 725b. Narcotic drug regulations

Preparations exempted

Sec. 8. Except as otherwise in this Act specifically provided, this Act shall not apply to the following cases:

Where a licensed physician, dentist, or veterinarian administers or dispenses; or where a licensed pharmacist sells at retail any

(1) Pharmaceutical preparations containing not more than 64.8 mgs. (1 gr.) codeine, or any of its salts, per 29.5729 cc (1 fl. oz.) or per 28.3 Gms. (1 av. oz.);

(2) Pharmaceutical preparations containing noscapine, or any of its salts;

(3) Pharmaceutical preparations containing papaverine, or any of its salts;

(4) Pharmaceutical preparations containing narceine, or any of its salts;

(5) Pharmaceutical preparations containing cotarnine, or any of its salts;

(6) Pharmaceutical preparations containing not more than 32.4 mgs. ($\frac{1}{2}$ gr.) dihydrocodeine, or any of its salts, per 29.5729 cc (1 fl. oz.) or per 28.3 Gms. (1 av. oz.);

(7) Pharmaceutical preparations in solid form containing not more than 2.5 mgs. diphenoxylate and not less than 25 micrograms atropine sulfate per dosage unit;

(8) Pharmaceutical preparations in solid form containing not more than 16.2 mgs. ($\frac{1}{4}$ gr.) morphine, or any of its salts, per 28.3 Gms. (1 av. oz.);

(9) Pharmaceutical preparations containing not more than 16.2 mgs. ($\frac{1}{4}$ gr.) ethylmorphine, or any of its salts per 29.5729 cc (1 fl. oz.) or 28.3 Gms. (1 av. oz.);

(10) Pharmaceutical preparations containing Nalorphine, or any of its salts;

(11) Pharmaceutical preparations in emulsion form containing not more than 15 milligrams of opium per 29.5729 cc (1 fl. oz.). The exemptions in Subsections (1), (6), (7), (8), (9) and (11) as 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. The exemptions in Subsections (2), (3), (4), (5) and (10) as 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 active or inactive non-narcotic ingredients of the type used in medicinal preparations; and (2) that such preparations 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 1963, 58th Leg., p. 570, ch. 206, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Record to be kept

Sec. 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

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

this Subsection 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 pharmaceutical preparations in Subsections (2), (3), (4), (5) and (10) of Section 8 or any pharmaceutical preparation classified as "M" products by the Federal Narcotic Law.

(2) **Manufacturers.** Manufacturers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of Subsection 5 of this Section.

(3) **Wholesalers.** Wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of Subsection 5 of this Section, provided no records be kept of pharmaceutical preparations (2), (3), (4), (5) and (10) in Section 8 or any pharmaceutical preparations classified as "M" products by the Federal Narcotic Law.

(4) **Apothecaries.** Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of Subsection 5 of this Section, provided no records be kept of pharmaceutical preparations (2), (3), (4), (5) and (10) in Section 8 or any pharmaceutical preparation classified as "M" products by the Federal Narcotic Law.

(5) **Form and Preservation of Records.** The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced, and the proportion of resin contained in or producible from the plant *Cannabis Sativa L.* The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two (2) years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws containing substantially the same information as is specified above, shall constitute compliance with this Section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft. As amended Acts 1963, 58th Leg., p. 570, ch. 206, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Registration statement of drug wholesalers and distributors, see Vernon's Ann. Civ.St. art. 4476--5, § 23.

Art. 726d. Dangerous drugs

Operation of aircraft while intoxicated, see art. 1137b-1.

Refusal to issue retail pharmacy permit to applicant who has sold counterfeit drugs, see Vernon's Ann.Civ.St. art. 4542a, § 17d (5).

**CHAPTER FOUR—BARBER SHOPS AND
BEAUTY PARLORS**

Art. 734b. Hairdressers and cosmetologists

Injunction proceedings

Sec. 19. The Attorney General or any district or county attorney may institute any injunction proceeding or any such other proceeding as to enforce the provisions of this Act and to enjoin any person from the practice of hairdressing and cosmetology, as defined in this Act, without having complied with the provisions of this Act. Each person shall forfeit to the State of Texas the sum of Twenty-five Dollars (\$25.00) per day as a penalty for each day's violation, to be recovered in a suit by the district attorney or county attorney or the Attorney General. The venue for such injunction proceedings shall be in the county of the residence of the person against whom such injunction proceedings are instituted. Added Acts 1963, 58th Leg., p. 1113, ch. 431, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER ELEVEN—MISCELLANEOUS

Art.

782c. Reporting treatment of gunshot wound [New].

Art.

782d. Misrepresentation of nonresident in application for medical aid [New].

Art. 782c. Reporting treatment of gunshot wound

Section 1. Any physician attending or treating a bullet or gunshot wound, or whenever such case is treated in a hospital, sanitarium, or other institution, the administrator, superintendent, or other person in charge shall report such case at once to the police authorities of the city, town, or county where such physician is practicing and/or where such hospital, sanitarium, or other institution is located.

Sec. 2. Any such person wilfully failing to report such treatment or request therefor shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for a period not to exceed six (6) months or by fine not to exceed One Hundred Dollars (\$100.00). Acts 1963, 58th Leg., p. 909, ch. 342.

Effective 90 days after May 24, 1963, date of adjournment.

Assault with prohibited weapon, see art. 1151.

Health laws, see Vernon's Ann.Civ.St. art. 4414a et seq.

Medicine, penal provisions, see art. 739 et seq.

Offenses against the person, see art. 1138 et seq.

Reporting death of prisoners, see arts. 350, 351.

Unlawfully carrying arms, see art. 483 et seq.

Title of Act:

An Act to provide for the reporting of medical treatment, or request therefor, of gunshot and other wounds indicating violence and providing penalties for failure to make such reports; and declaring an emergency. Acts 1963, 58th Leg., p. 909, ch. 342.

Art. 782d. Misrepresentation of nonresident in application for medical aid

Section 1. It shall be unlawful for any person who is a resident of a foreign country or another state other than Texas to misrepresent his

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

place of residence when furnishing information in applying for medical aid from any state or county hospital of this State.

Sec. 2. Any person who violates this Act shall upon conviction be fined not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200) and confined to the county jail for a period of not more than six (6) months. Acts 1963, 58th Leg., p. 980, ch. 404.

Effective 90 days after May 24, 1963, date of adjournment.

Department of public welfare, see Vernon's Ann.Civ.St. art. 695c.

Health boards and laws, see Vernon's Ann.Civ.St. art. 4414a et seq.

Medical assistance to recipients of public assistance, see Vernon's Ann.Civ.St. art. 695j.

Title of Act:

An Act making it unlawful for any person who is a resident of a foreign country or another state other than Texas to misrepresent his place of residence when applying for medical aid from any state or county hospital; providing penalties for violations; and declaring an emergency. Acts 1963, 58th Leg., p. 980, ch. 404.

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

CHAPTER ONE—HIGHWAYS AND VEHICLES

Art. 827a—5. Length of oil well servicing units [New].	Art. 827c—1. Identification signs on vehicles hauling citrus fruit [New].
827a—6. Movement of oversize or overweight oil well servicing and drilling machinery [New].	827g. Speed of vehicles in parks of counties bordering Gulf of Mexico [New].

Art. 791. Exceptions to speed law

Speed limits on capitol grounds, see Vernon's Ann.Civ.St. art. 678e, § 5.

Art. 827a—5. Length of oil well servicing units

Section 1. For the purposes of this Act, an "oil well servicing unit" shall mean a complete well servicing unit, equipped with a derrick, or mast pole, which is permanently mounted on the chassis of a motor vehicle, and which vehicle provides all the necessary power for the operation of said unit.

Sec. 2. Notwithstanding other statutes governing the length of motor vehicles which may be operated over the highways and roads, it shall be lawful to operate oil well servicing units not to exceed forty (40) feet in length.

Sec. 3. The width, height, and gross weight of each such oil well servicing units shall conform to the requirements of Chapter 42, Acts of the Forty-first Legislature, Second Called Session, 1929, as last amended by Section 1 of Chapter 402, Acts of the Fifty-seventh Legislature, Regular Session, 1961 (codified as Article 827a of the Revised Penal Code of Texas). Acts 1963, 58th Leg., p. 153, ch. 93.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 827a—6. Movement of oversize or overweight oil well servicing and drilling machinery**Purpose of act**

Section 1. The provisions of this Act shall be cumulative of all other laws regulating the operation of vehicles and the movement of machinery on the highways of this state, it being the express intent of this Act to provide an optional procedure for the issuance of permits for the movement of oversize or overweight oil well servicing and/or oil well drilling machinery and equipment.

Permits; designation of routes

Sec. 2. When any person, firm or corporation, desires to operate over any road or highway under the jurisdiction of the State Highway Department any vehicle which is a piece of fixed load mobile machinery or equipment used for the purpose of servicing, cleaning out, or drilling oil wells, and when such vehicle cannot comply with one or more of the restrictions set out in Sections 3 and 5 of Acts 1929, 41st Legislature, 2nd Called Session, Chapter 42, page 72, as amended (Article 827a, Vernon's Annotated Penal Code), the State Highway Department may, as an alternative to

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any other procedure authorized by law, upon application, issue a permit for the movement of such vehicle, when the Department is of the opinion that the same may be moved without material damage to the highway or serious inconvenience to highway traffic. Provided, however, that all cities and towns having a state highway within their limits may designate to the State Highway Department the route within the city or town to be used by said vehicles operating over the state highway. When so designated, the route shall be shown on all maps routing said vehicles by the State Highway Department. In the event a route is not so designated by a city or town, the State Highway Department shall determine the route on state highways for such vehicles within cities or towns. No fee, permit or license shall be required by any city or town for movement of said vehicles on the route of a state highway designated by the State Highway Department or on said special route designated by a city or town.

Necessity of registration of vehicles

Sec. 3. Prior to issuing any permit for the movement of such vehicles, said vehicles must have been registered under Acts, 1929, 41st Legislature, 2nd Called Session, Chapter 88, as amended (Article 6675a, Vernon's Annotated Civil Statutes) for the maximum gross weight applicable to such vehicles under Section 5, Acts, 1929, 41st Legislature, 2nd Called Session, Chapter 42, page 72, as amended (Article 827a, Vernon's Penal Code), or shall have the distinguishing license plates as provided in Paragraph (c) of Section 2, Acts, 1929, 41st Legislature, 2nd Called Session, Chapter 88, as added by Acts, 1961, 57th Legislature, Regular Session, Chapter 259, page 554, as amended, if applicable to said vehicles.

Rules and regulations; forms and procedures; violations; fees

Sec. 4. The State Highway Commission shall formulate rules and regulations regarding the issuance of such permits including, but not limited to, the forms and procedures to be used in applying for same; conditions with regard to route and time of movement and special requirements as to flags, flagmen and warning devices; the fees to be collected and deposited in the State Highway Fund; whether a particular permit shall be for one trip only, or for a period of time to be established by the Commission; and such other matters as the Commission may deem necessary to carry out the provisions of the Act. The failure of an owner or his representative to comply with any rule or regulation of the Commission or with any condition placed on his permit shall render the permit void and, immediately upon such violation, any further movement over the highways of the oversize or overweight vehicles, shall be in violation of existing laws regulating the size and weight of vehicles on public highways.

It is recognized that the movement of such overweight and oversize vehicles is a privilege not accorded to every user of the highway system, and it is logical and proper that the fees to be charged for special transportation permit be sufficient to provide that the permittee pay the administrative costs incurred in the processing and issuing of the permits, pay for the added wear on the highways in proportion to the reduction of service life, and for the special privilege of transporting a more hazardous load over the highways thus compensating for the economic loss to the operators of vehicles in regular operation due to necessary delays and inconveniences occasioned by these types of vehicle movements. It is, therefore, declared to be the policy of the Legislature that in formulating

such rules and regulations and in establishing such fees, the Commission shall consider and be guided by:

- a. The state's investment in its highway system;
- b. The safety and convenience of the general traveling public;
- c. The amount of registration or license fee previously paid on the vehicle for which the permit is desired, and the amount of such fees paid by vehicles operating within legal limits; and
- d. The suitability of roadways and sub-grades on the various classes of highways of the system, variation in soil grade prevalent in the different regions of the state and the seasonal effects on highway load capacity as well as the highway shoulder design and other highway geometrics and the load capacity of the highway bridges.

Damages to highways

Sec. 5. The issuance of a permit for an oversize or overweight movement shall not be a guarantee by the Department that the highways can safely accommodate such movement, and the owner of any vehicle involved in any oversize or overweight movement, whether with or without permit, shall be strictly liable for any damage such movement shall cause the highway system or any of its structures or appurtenances.

Determination as to whether vehicle subject to registration; license plates

Sec. 6. With respect to oil well servicing, oil well clean out, and/or oil well drilling machinery or equipment, the State Highway Department may, if determined by it to be necessary or expedient for the proper administration of the laws of this state regarding the registration and licensing of motor vehicles, establish criteria for determining whether a vehicle of the specific type described in this Section is subject to registration under Article 6675a, Revised Civil Statutes, or eligible for the distinguishing license plate provided for in Paragraph (c) of Section 2, Acts, 1929, as added by Acts of 1961, 57th Legislature, Chapter 259, page 554, as amended, and on the basis of such criteria, said Department is authorized to determine whether such vehicle is or is not subject to registration under Article 6675a. Provided, however, that no vehicle heretofore authorized by the State Highway Department to operate without registration under the provisions of Article 6675a shall hereafter be required to register under the provisions thereof. For all purposes under this Section 6 of this Act, oil well servicing, oil well clean out and oil well drilling machinery or equipment shall mean only those vehicles constructed as a machine used solely for servicing, cleaning out, and/or drilling oil wells, and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for such purpose or purposes.

Application of act

Sec. 7. Nothing in this Act shall be construed to include or apply to any person, firm or corporation authorized by the Railroad Commission of Texas to operate as a carrier for compensation or hire over the public highways of this state, whether or not all the operations of such person, firm or corporation are performed under such certificate, permit or authority granted by the Commission. Acts 1963, 58th Leg., p. 492, ch. 179.

Effective 90 days after May 24, 1963, date of adjournment.

Fees for registration of commercial motor vehicles or truck-tractors, see Vernon's Ann.Civ.St. art. 6675a—6.

Movement of oversize and overweight oil well servicing and drilling machinery, see art. 827a § 6.

Registration of vehicles, see Vernon's Ann.Civ.St. art. 6675a—2.

Regulating operation of vehicles on highways, see art. 827a.

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Art. 827a, sec. 8. Repealed. Acts 1963, 58th Leg., p. 455, ch. 161, § 2.
Eff. 90 days after May 24, 1963, date of adjournment

Prior to repeal, art. 827a, § 8, was amended by Acts 1961, 57th Leg., p. 662, ch. 304, § 1 and Acts 1961, 57th Leg., p. 904, ch. 402, § 1. See, now, Vernon's Ann.Civ.St. art. 6701d, art. XIX, §§ 166-172.

Obstructing turnpike, see art. 857.

Turnpike projects, see Vernon's Ann.Civ. St. art. 6674v.

Art. 827c—1. Identification signs on vehicles hauling citrus fruit

Lettering; location and size

Section 1. It shall be unlawful to operate any truck, tractor, trailer or other motor vehicle hauling citrus fruit in bulk or in unclosed containers, for commercial purposes, on the highways of this State unless said truck, tractor, trailer or other motor vehicle is labeled by lettering not less than three (3) inches in height on both sides, or the rear end and the front end, plainly showing the name of the firm or the name of the corporation or person owning same, or the name of any lessee or other person operating same. If said truck, tractor, trailer, or other motor vehicle is owned or operated by a licensed fruit dealer under Chapter 236, Acts of the Forty-fifth Legislature, Regular Session, 1937, as last amended by Chapter 334, Acts of the Fifty-fourth Legislature, Regular Session, 1955,¹ there shall also appear the words "Licensed Citrus Fruit Dealer" in lettering not less than three (3) inches in height under the name of the owner or operator of said vehicle. When both a tractor and trailer or when two (2) units are used in the operation of hauling, both of said units shall be so marked; the designation shall be placed upon the vehicle or units in a permanent manner or in a substantial way so as to be not easily removed. Provided, however, that the provisions of this Section shall not apply to any such fruit being hauled from the farm or grove by the producer (including any employee of the producer driving a vehicle owned by producer) of such fruit in his own vehicle to market or place of first processing.

Certificates concerning citrus fruit being hauled

Sec. 2. Any person driving any truck, tractor, trailer or other motor vehicle hauling citrus fruit in bulk or in unclosed containers for commercial purposes on the highways of the State shall have on his person when driving such vehicle, a certificate or other paper showing the approximate amount of fruit being hauled, the name of owner and the origin of such fruit, and it shall be unlawful to drive any such vehicle without having such certificate or other paper as aforesaid. Provided, however, that the provisions of this Section shall not apply to any such fruit being hauled from the farm or grove by the producer (including any employee of the producer driving a vehicle owned by producer) of such fruit in his own vehicle to market or place of first processing.

Violations

Sec. 3. Whoever violates or fails to comply with any of the provisions of this Act shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or be confined in jail not less than thirty (30) days nor more than six (6) months, or shall be punished

by both such fine and confinement, in the discretion of the court. Acts 1963, 58th Leg., p. 591, ch. 214.

¹ Vernon's Ann.Civ.St. art. 118b.

Effective Sept. 1, 1963.

Acts 1963, 58th Leg., p. 591, ch. 214, §§ 4-6 provided:

"Sec. 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 5. All laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict only.

"Sec. 6. This Act shall become effective on September 1, 1963."

Citrus fruit growers act, see Vernon's Ann.Civ.St. art. 118b.

Art. 827g. Speed of vehicles in parks of counties bordering Gulf of Mexico

Maximum speed

Section 1. No person shall drive a vehicle at a speed greater than thirty (30) miles per hour within the boundaries of any county park situated in a county that borders on the Gulf of Mexico.

Littering of county parks

Sec. 2. No person shall litter any county park situated in a county that borders on the Gulf of Mexico. Littering, as used in this Act, means the discarding of garbage, paper, and other forms of refuse in any place other than officially designated refuse containers or disposal units.

Application of act

Sec. 3. The provisions of this Act shall not apply to any beach, as that term is defined in Chapter 19 of the Acts of the Fifty-sixth Legislature, Second Called Session, 1959,¹ whenever a beach is included within the boundaries of a county park situated in a county that borders on the Gulf of Mexico.

¹ Vernon's Ann.P.C. art. 5415d.

Violations; fines

Sec. 4. Any person who violates any provision of this Act shall be fined not less than One Dollar (\$1) nor more than Two Hundred Dollars (\$200) for each offense. Acts 1963, 58th Leg., p. —, ch. 41.

Effective 90 days after May 24, 1963, date of adjournment.

Uniform act regulating traffic on highways, see Vernon's Ann.Civ.St. art. 6701d.

County parks, see Vernon's Ann.Civ.St. art. 6078 et seq.

Title of Act:

Regulation of speed of vehicles in public parks, powers of local authorities, see Vernon's Ann.Civ.St. art. 6701d, sec. 27(a) 5.

An Act providing a maximum speed limit in county parks situated in a county that borders on the Gulf of Mexico and prohibiting the littering of such county parks; excluding beaches from the applicability of such provisions; providing a penalty for violations; and declaring an emergency. Acts 1963, 58th Leg., p. 61, ch. 41.

State beaches, right of public to free use and enjoyment, see Vernon's Ann.Civ. St. art. 5415d.

CHAPTER SIX—GAME, FISH AND OYSTERS

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| <p>Art.
978d—1. Taking or killing sea turtles or eggs [New].</p> <p>978e—1. Sale of imported black bass in El Paso County [New].</p> <p>978f—3a. Parks and Wildlife Department [New].</p> | <p>Art.
978f—3b. Transfer of confiscated marine equipment to college or university for research programs [New].</p> <p>978l—8. Discharging or hunting with weapon on lands of Lower Colorado River Authority [New].</p> |
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Art. 892. Certain animals declared to be game animals

Wild deer, wild elk, wild antelope, wild Desert Bighorn sheep and Aoudad sheep, wild black bear, wild gray and red squirrels, cat squirrels or fox squirrels, collared peccary or javelina, and the American Bison or buffalo are hereby declared to be game animals within the meaning of this Act. As amended Acts 1963, 58th Leg., p. 8, ch. 6, § 1.

Emergency. Effective March 4, 1963.

Art. 896. License fees under control of council

All license fees and hunting-boat registration fees collected under this Act, and all fines that may be made from this fund shall be expended for land or other real estate only upon the authorization of a majority vote of a council composed of Game, Fish and Oyster Commissioner, one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years, and the State Comptroller, who shall act on this council during their respective terms of office. As amended Acts 1963, 58th Leg., p. 1138, ch. 442, § 15.

Effective 90 days after May 24, 1963, date of adjournment. curred when performing duties at official meetings, Vernon's Ann.Civ.St. art. 3183a, note.

Reimbursement of citizen members of boards and commissions for expenses in-

Art. 908. Hunting on game preserves for pay

Fees; affidavits of licensees; non-resident licenses; purchase

(g) Before such license is issued the person applying for a shooting preserve license shall pay to the Game and Fish Commission the sum of Five Dollars (\$5). If the license applied for is a shooting resort license, the person shall pay to the Game and Fish Commission the sum of Ten Dollars (\$10). In each event the licensee shall file with the Game and Fish Commission the name of said club, shooting preserve or shooting resort and shall file with the Game and Fish Commission an affidavit that he will not violate any of the provisions of this article and will endeavor to prevent guests of said club, shooting preserve, shooting resort or premises leased for hunting purposes from doing so and that no guests will be accommodated who have not previously secured a hunting license. A non-resident license, for use only on state-licensed shooting resorts during the shooting resort season from October 1st to April 1st, may be purchased for the sum of Three Dollars and fifteen cents (\$3.15), and will be considered a valid license for out-of-state guests. Twenty-five cents (25¢) of the fee collected for any license provided for in this Subsection may be retained by the issuing agent, except that employees of the Game and Fish Commission may not retain such fee. As amended Acts 1963, 58th Leg., p. 963, ch. 386, § 4.

Effective 90 days after May 24, 1963, date of adjournment.

Definition

Section 1. All 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 ring-tail cat, wild badger, wild polecat or skunk, wild raccoon, wild muskrat, wild opossum, wild fox and wild civet are hereby declared to be fur-bearing animals. As amended Acts 1963, 58th Leg., p. 815, ch. 311, § 1.

Effective 90 days after May 24, 1963, date of adjournment. Possession, transportation and sale of live coypu, see art. 923x.

Art. 933a. Repealed. Acts 1963, 58th Leg., p. 743, ch. 279, § 2. Eff. 90 days after May 24, 1963, date of adjournment

See, now, article 978e.

Art. 934a. Commercial fisherman and wholesale dealer's license

License fees; sizes of fish which may be sold**Sec. 3.**

1. Commercial Fisherman's License, fee Three Dollars (\$3). Fifteen cents (15¢) of this amount may be retained by the issuing agent, except that employees of the Game and Fish Commission may not retain such fee. As amended Acts 1963, 58th Leg., p. 963, ch. 386, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 934b—2. Commercial fishing in tidal waters

Commercial fishermen's licenses

Sec. 2. Before any commercial fisherman shall take, catch or assist in taking, any fish, shrimp or oysters, or any other edible aquatic life from the tidal salt waters of this State, a license shall first be procured from the Game and Fish Commission of Texas privileging him so to do. The fee for such Commercial Fisherman's License shall be Three Dollars (\$3). Fifteen cents (15¢) may be retained by the issuing agent for each license issued, except that employees of the Game and Fish Commission may not retain such fee. The license shall expire August 31st following the date of issuance. As amended Acts 1963, 58th Leg., p. 963, ch. 386, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Commercial fishing boat licenses

Sec. 3. Before any commercial fishing boat shall be used for the purpose of taking, catching, or assisting in taking or catching fish, shrimp, oysters, or any other edible aquatic life from the tidal waters of this State, for pay, or for the purpose of sale, barter or exchange, a license, to be known as a Commercial Fishing Boat License, shall first be procured by the owner of such commercial fishing boat from the Game and Fish Commission of Texas privileging such boat to be so used. The fee for a Commercial Fishing Boat License shall be Six Dollars (\$6). Twenty-five cents (25¢) may be retained by the issuing agent for each license issued, except that employees of the Game and Fish Commission may not retain such fee. The license shall expire August 31st following the date of issuance. As amended Acts 1963, 58th Leg., p. 963, ch. 386, § 3.

Effective 90 days after May 24, 1963, date of adjournment. Transfer of confiscated marine equipment to college or university for research programs, see art. 973f—3b.

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Art. 934b—3. Sale of seafood obtained in commercial joint adventure

Section 1. (a) It shall be unlawful for any person who is engaged commercially in catching or taking fish, shrimp, oysters or other seafood in a joint adventure or other undertaking whereby he receives a percentage of the proceeds of the sale of the catch, or a share of the catch himself, to sell or offer for sale any of such products, obtained in the joint adventure, except in the regular course of such joint adventure, with the express or implied consent of his coadventurer or coadventurers.

(b) It shall be unlawful for any person who is employed on a salary or any other basis in the commercial catching or taking of fish, shrimp, oysters, or other seafood, to sell or offer for sale such products without the express or implied consent of his employer.

(c) It shall be unlawful for any person to purchase any fish, shrimp, oysters or other seafood, knowing it is offered for sale in violation of this Act.

Sec. 2. (a) Any person who violates any provision of this Act shall be, for the first offense, fined not less than One Hundred Dollars (\$100) nor more than Two Hundred Dollars (\$200); and, for the second and all subsequent offenses, shall be fined not less than Five Hundred Dollars (\$500) nor more than Two Thousand Dollars (\$2,000), or be sentenced to serve not less than five (5) days nor more than six (6) months in the county jail, or shall be punished by both such fine and imprisonment.

(b) Charges may be filed, prosecutions maintained, cases tried, and proceedings had, for violation of any provision of this Act, in the county wherein the offense occurs.

Sec. 3. Any and all laws or parts of laws of the State of Texas, General and Special, in conflict with any of the provisions of this Act are hereby expressly repealed to the extent of such conflict.

Sec. 4. It is hereby declared to be the legislative intent to enact each separate provision of this Act independent of all other provisions, and the fact that any section, word, clause, sentence, or part of this Act shall be declared unconstitutional shall in no event affect any other section, word, clause, sentence or part thereof, and it is hereby declared to be the intent of the Legislature to have passed each sentence, section, part or clause hereof irrespective of the fact that any other section, sentence, clause or part hereof may be declared invalid. Acts 1963, 58th Leg., p. 692, ch. 255.

Effective 90 days after May 24, 1963,
date of adjournment.

Art. 947. [906] Seining within one mile from city

Taking or killing sea turtles or eggs, see
art. 978d—1.

Art. 952l—11. Shrimp; classification of fish; taking nongame fish

Transfer of confiscated marine equipment
to college or university for research pro-
grams, see art. 978f—3b.

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Art. 952l—12. Taking of fish from Espiritu Santo Bay and other bays and lakes**Taking fish by means other than hook and line; fines**

Section 1. It is hereby made unlawful for any person to take or catch fish from the waters of Espiritu Santo Bay, or in those portions of San Antonio Bay South or Southeast of the Intracoastal Waterway, or in Shoalwater Bay, Barroom Bay, Pats Bay, Big Bayou, Saluria Bayou, Rahal Bayou, Steamboat Pass, Mailboat Channel, Pringle Lake, Contee Lake, South Pass Lake, Long Lake, Big Pocket, Lighthouse Cove or in Power Lake in Calhoun County, Texas, by any other means than hook and line, rod and reel, or trotline, or flounder gig and light, or by the use of cast net or minnow seine used in catching bait not exceeding twenty (20) feet in length. Any person drawing a seine or setting a net for the purpose of taking fish in the waters of Espiritu Santo Bay, or in those portions of San Antonio Bay South or Southeast of the Intracoastal Waterway, or in Shoalwater Bay, Barroom Bay, Pats Bay, Big Bayou, Saluria Bayou, Rahal Bayou, Steamboat Pass, Mailboat Channel, Pringle Lake, Contee Lake, South Pass Lake, Long Lake, Big Pocket, Lighthouse Cove or in Power Lake in Calhoun County, Texas, or any person catching or taking fish in such waters by any other means than by hook and line, rod and reel, or trotline, or flounder gig and light, or by the use of cast net or minnow seine not exceeding twenty (20) feet in length shall be deemed guilty of a misdemeanor, and shall be fined in a sum of not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

Arrests; disposition of seized seines and nets

Sec. 2. When any peace officer of this state or any law enforcement officer employed by the Texas Game and Fish Commission sees any seine, strike net, gill net, or trammel net, or any device the use of which is prohibited under Section 1 of this Act where the use of such device is prohibited and has reason to believe and does believe that the same is being used or possessed in violation of the provisions of this Act, it shall be his duty to arrest the party using or possessing such device and, without a warrant, shall seize such device as evidence. Nothing herein shall be construed as making it illegal to possess or transport such net or seine from one legal area to another even though passing through such closed area. It shall be the duty of such peace officer or employee to deliver such device to a court of competent jurisdiction of the county in which it was seized, where it shall be held as evidence until after the trial. If the defendant is found guilty of possessing or using such device unlawfully, the court shall enter an order directing the immediate destruction of such device by any state game warden or by the sheriff or constable of the county where the case was tried, and the game warden or sheriff or constable of the county shall immediately destroy such device and make a sworn report to the judge of such court, showing how, when, and where said device was destroyed. When such device is found by a peace officer of this state or any law enforcement officer employed by the Texas Game and Fish Commission without anyone in possession where its use is prohibited, it shall be seized by such officer without warrant and delivered to the appropriate court in the county in which it was found. Said peace officer or employee shall make affidavit that such device was found in or on the tidal waters of this state at a point where its use was prohibited, which said affidavit shall describe such device and the court shall direct the game warden or sheriff or any constable of the county to post a copy of said affidavit in the courthouse of the county in which said device was

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seized, and said officer shall make his return to the court showing when and where said notice was posted. Thirty (30) days after such notice is posted, the court, either in term-time or in vacation, shall enter an order directing the immediate destruction of such device by any game warden or the sheriff or any constable in the county, and said officer executing said order, shall, under oath, make his return to said court, showing how, when, and where, such device was destroyed. It shall be the duty of the Game and Fish Commission to enforce this Act.

The Game and Fish Commission of the State of Texas, when requested by authorized representatives of units of The University of Texas System and the Texas Agricultural and Mechanical College System, engaged in teaching and research related to marine science and oceanography, may transfer to such units of The University of Texas System and the Texas Agricultural and Mechanical College System fish nets, seines, and other marine equipment, which have been confiscated under this Act, to be used in carrying out the teaching and research programs within said institutions.

Admissibility of geodetic maps

Sec. 3. All United States Geodetic Maps of the Coast of Texas and the Intracoastal Waterway of Texas are admissible¹ in evidence in the prosecution for the violation of this Act.

¹ So in enrolled bill.

Repealer

Sec. 4. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict only.

Severability

Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications to 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.

Effective date

Sec. 5a. This Act shall become effective on September 1, 1964. Acts 1963, 58th Leg., p. 624, ch. 230.

Effective Sept. 1, 1964.

Transfer of confiscated marine equipment to college or university for research programs, see art. 978f—3b.

Art. 958. [910] Underweight turtle or terrapin

Taking or killing sea turtles or eggs, see art. 978d—1.

Art. 978d—1. Taking or killing sea turtles or eggs

Section 1. It shall be unlawful for any person to knowingly take, kill or disturb any sea turtle or any sea turtle eggs in or from the waters of the State of Texas.

Sec. 2. Any person violating this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10) nor

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more than Two Hundred Dollars (\$200). Acts 1963, 58th Leg., p. 968, ch. 390.

Effective 90 days after May 24, 1963,
date of adjournment.

and declaring an emergency. Acts 1963,
58th Leg., p. 968, ch. 390.

Title of Act:

An Act making unlawful the taking, killing or disturbing of sea turtles or their eggs; providing a penalty for violation;

Removal of rough fish and turtles from public fresh waters, see Vernon's Ann.Civ. St. art. 4050c.

Art. 978e. Sale of bass and crappie

Saved from Repeal

Acts 1963, 58th Leg., p. 748, ch. 279, which, in section 1, adds article 978e—1 to the Penal Code, and which, in section 2, repeals article 933a, expressly saves this article from repeal.

Art. 978e—1. Sale of imported black bass in El Paso County

(a) The sale in El Paso County, Texas, of black bass imported from without the United States, which were caught in inland waters of a foreign country but not from international waters of the United States and such foreign country, shall be lawful, so long as the taking of these fish for sale is permitted in the country from which they are imported. No person shall sell or attempt to sell any such black bass in El Paso County, Texas, however, unless the fish bear a properly attached tag as provided herein.

(b) Any licensed custom house broker who desires to handle the importation of black bass for sale in El Paso County, Texas, shall notify the Texas Game and Fish Commission, and the Commission shall assign the broker a permanent record number. The Commission shall manufacture or cause to be manufactured, on request by a broker, any desired number of metal tags. The cost of manufacturing these tags shall be paid by the broker who requests them, and each tag shall bear the broker's permanent record number and a separate number to identify the tag. One of these tags shall be attached to the gill, dorsal fin or tail of each black bass to be sold in El Paso County, Texas.

(c) Any person who sells or attempts to sell a black bass in El Paso County, Texas, which does not bear a properly attached tag shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). Added Acts 1963, 58th Leg., p. 743, ch. 279, § 1.

Effective 90 days after May 24, 1963,
date of adjournment.

Art. 978f. Game, Fish and Oyster Commission; powers and duties

Change of name of Game and Fish Commission to Parks and Wildlife Department, see art. 978f—3a.

Art. 978f—3a. Parks and Wildlife Department

Reconstituting and changing name of Game and Fish Commission;
Parks and Wildlife Commission; appointment and terms;
vacancies; meetings and expenses

Section 1. From and after the effective date of this Act, the Game and Fish Commission shall be reconstituted and known as the "Parks and Wildlife Department," which shall be under the policy direction of a Commission which shall consist of three (3) members, one (1) of whom shall

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be designated by the Governor as Chairman. The members of the Parks and Wildlife Commission shall be appointed by the Governor, which appointments shall be with the advice and consent of two-thirds ($\frac{2}{3}$) of the Members of the Senate present, if in Session, and if not in Session, the Governor shall appoint such Members and issue a commission to them as provided by law, and their appointment shall be submitted to the next Session of the Senate for their advice and consent in the manner that appointments to fill vacancies under the Constitution are submitted to the Senate. The Governor shall appoint the members of the Parks and Wildlife Commission, one (1) whose term shall expire February 1, 1965, one (1) whose term shall expire February 1, 1967, and one (1) whose term shall expire February 1, 1969, or until their successors are appointed and qualified. In case of a vacancy in Commission membership, the Governor shall appoint a replacement member to fill the unexpired term of the vacating member. A quorum for the dispatch of official business shall be two (2) members. Thereafter, the Governor shall appoint members for terms of six (6) years. The members of said Commission shall be reimbursed for their actual expenses incurred in attending meetings, and shall be paid a per diem as set out in the General Appropriations Act. The Commission shall meet as often as it deems necessary, but shall meet at least once every quarter of the year.

Terms of office of members of Game and Fish Commission

Sec. 2. The term of office of the present members of the Game and Fish Commission shall expire with the effective date of this Act; provided, however, that this provision shall not preclude the Governor from appointing one (1) or more members to the Parks and Wildlife Commission provided for in Section 1 of this Act.

Executive director; appointment; powers and duties

Sec. 3. The Parks and Wildlife Commission shall have the power and authority to appoint an Executive Director who shall be the chief executive officer of the Parks and Wildlife Department and shall perform its administrative duties. Such Executive Director shall have authority to appoint such heads of divisions, game and fish wardens, park managers, and other employees as may be authorized by appropriations therefor and as may be deemed necessary for executing, administering and carrying out the duties and services authorized by law to be performed by the Parks and Wildlife Commission and the Parks and Wildlife Department. The Executive Director shall serve at the will of the Parks and Wildlife Commission. All other employees shall serve at the will of the Executive Director.

Abolition of State Parks Board

Sec. 4. The State Parks Board is hereby abolished and all powers, duties and authority heretofore vested in the State Parks Board are hereby transferred to the Parks and Wildlife Department provided for herein. The terms of office of the present members of the State Parks Board are hereby terminated and this provision shall not preclude the Governor from appointing one (1) or more members of the State Parks Board to the Parks and Wildlife Commission provided for in Section 1 of this Act.

Powers and duties; donations, grants and gifts

Sec. 5. The Parks and Wildlife Department provided for herein shall exercise and perform all powers and duties heretofore vested in the Game and Fish Commission prior to the effective date of this Act, and the State Parks Board prior to the effective date of this Act, and that portion of the

program administered by the Parks and Wildlife Department which deals with the operation, maintenance, and improvement of State Parks shall be financed from the General Revenue Fund, the State Parks Fund, other funds as may be authorized by law, and such donations, grants, and gifts as may be received by said Department. No donations, grants or gifts accruing to the State of Texas or received by the Parks and Wildlife Department herein created, or now on hand in the presently constituted State Parks Department for the purpose of operating, maintaining, improving or developing State Parks, shall be used for any other purpose than the operation, maintenance, or developing of State Parks.

Federal aid; wildlife and fish restoration projects

Sec. 6. The State of Texas assents to the provisions of the Acts of the U. S. Congress entitled "An Act to provide that the United States shall aid the states in wildlife-restoration projects, and for other purposes," approved September 2, 1937 (Public Law No. 415, 75th Congress),¹ and "An Act to provide that the United States shall aid the states in fish-restoration management projects, and for other purposes," approved August 9, 1950 (Public Law No. 681, 81st Congress),² and any amendments thereto, and the Parks and Wildlife Commission is authorized and empowered to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife-restoration and cooperative fish-restoration projects, as defined in said Acts of Congress, in compliance with said Acts, with rules and regulations promulgated thereunder by the Secretary of the Interior, and with enactments of Texas Legislatures; and no funds accruing to the State of Texas from hunting license fees, fishing license fees, commercial fishing boat license fees, oyster license fees, net license fees, trawl license fees, seine license fees, or from any other fees collected by the former Texas Game and Fish Commission, or from any other funds received by the former Texas Game and Fish Commission including fines as a result of action taken by any court for a violation of any game or fish law; or receipts from the sale of shell, sand or gravel shall be diverted for any other purposes than for making necessary studies and management of the fish and game resources of this State and for the expansion and development of additional opportunities of hunting and fishing in State-owned land and waters for the benefit of the public wherever practicable and to embrace wherever feasible the principle of multiple use of our land and waters for better hunting and fishing opportunities. The special Game and Fish Fund shall be used for the purposes provided herein and for the purposes as now described by law and nothing shall be done to jeopardize or divert this Fund or any portion thereof including Federal aid as described in Section 6 of this Act. Acts 1963, 58th Leg., p. 104, ch. 58.

¹ 16 U.S.C.A. §§ 669-669i.

² 16 U.S.C.A. §§ 777-777k.

Effective 90 days after May 24, 1963,
date of adjournment.

Art. 978f—3b. Transfer of confiscated marine equipment to college or university for research programs

The Game and Fish Commission of the State of Texas, when requested by authorized representatives of units of The University of Texas System and the Texas Agricultural and Mechanical College System, engaged in teaching and research related to marine science and oceanography, may transfer to such units of The University of Texas System and the Texas Agricultural and Mechanical College System or any other col-

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lege or university located in Texas which is State supported fish nets, seines, motors, boats, and other marine equipment, which have been confiscated under the game and fish laws, to be used in carrying out the teaching and research programs within said institutions. Acts 1963, 58th Leg., p. 945, ch. 373, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 978f—5. Wildlife management areas; powers of Commission to manage; regulation of hunting and fishing

Hunting with weapon on lands of Lower Colorado River Authority, see art. 978l—2.

Art. 978f—6. Reciprocal agreements; fishing and hunting on waters located upon common boundaries with other states

Change of name of Game and Fish Commission to Parks and Wildlife Department, see art. 978f—3a.

Art. 978j. Local game and fish laws

For fish and game law applicable only to the named counties, see notes under Vernon's Ann.Pen.Code, art. 978j.

Art. 978k. Game breeder's license

Sale of deer, turkey or quail in open season

Sec. 9. It shall be unlawful for any game breeder to sell in this state, or ship to any person in this state or for any citizen of this state to purchase from any game breeder any deer, turkey or quail during any open season for taking such game birds or game animals or for a period of ten (10) days before and after such open season; provided, however, that it shall be lawful for a licensed game breeder to sell pen-raised quail to any licensed shooting resort operator at any time of the year. As amended Acts 1963, 58th Leg., p. 928, ch. 358, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 978l—2. Open season for and possession of game mammals, game birds and fur-bearing animals in portion of state west of Pecos River; violations

Sec. 4. The Game and Fish Commission shall have full power and discretion to regulate the taking of wild deer under sound wildlife management practices. The Commission is authorized to adopt any and all reasonable rules, regulations or orders which it finds are necessary and proper to effectuate the provisions and purposes of this Act, including the authority to determine the period of time in which it shall be lawful to take or kill any wild deer, to determine the number and sex of a species to be taken by any one person, and to determine the means and methods that shall be lawful for the taking or killing of wild deer. It is provided, however, that the Commission's proclamation, rule or regulation permitting the hunting or taking of antlerless deer shall not be valid unless the owner or person in charge of the land upon which antlerless deer are to be taken shall have agreed in writing to the removal by hunting of such antlerless deer from his tract under supervision and regulation of the

Commission, and to the number of antlerless deer which may be removed therefrom. As amended Acts 1963, 58th Leg., p. 24, ch. 18, § 1.

Effective 90 days after date of adjournment.

Art. 978l—8. Discharging or hunting with weapon on lands of Lower Colorado River Authority

Section 1. It shall be unlawful for any person to carry, transport, shoot, discharge, or hunt with a bow, crossbow, slingshot, gun, firearms or any other type of weapon in, on, over, across or upon the lands of the Lower Colorado River Authority, an agency of the State of Texas, created by the Acts of the 43rd Legislature of the State of Texas, 1934, Fourth Called Session, Chapter 7, page 19, as amended.¹

Sec. 2. Any person violating this Act shall be fined not more than One Hundred Dollars (\$100.00). Acts 1963, 58th Leg., p. 1145, ch. 443.

¹ Vernon's Ann.Civ.St. art. 8280—107.

Effective 90 days after May 24, 1963, date of adjournment.

Wildlife management areas, see art. 978f—5.

Lower Colorado River Authority, creation, see Vernon's Ann.Civ.St. art. 8280—107.

TITLE 14—TRADE AND COMMERCE

CHAPTER FIVE—WEIGHTS AND MEASURES

Art. 1054. Deposit for installing service

Every person, firm, company, corporation, receiver or trustee engaged in the furnishing of water, light, gas or telephone service which requires the payment on the part of the user of such service a deposit of money as a condition precedent to furnishing any such service, shall pay six per cent (6%) interest per annum on such deposit to the one making same, or to his heirs or assigns, from the time of such deposit, the same to be paid annually on demand, or sooner if such service be discontinued. When such service is discontinued, such deposit, together with any unpaid interest thereon, or such part of such deposit and unpaid interest not consumed in bills due for such service, shall be returned to such depositor, his heirs or legal representatives. Whoever violates any provision of this Article shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200), or be confined in jail not less than six (6) months nor more than one year, or both. As amended Acts 1963, 58th Leg., p. 50, ch. 32, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

For civil provisions without a penal clause, see Vernon's Ann.Civ.St., art. 1440.

CHAPTER SIX—OFFENSES AGAINST LABELS,
TRADE MARKS, ETC.

Art. 1058. [1392] Reusable containers bearing trademark; reuse; removal of name or mark

"Any normally reusable keg, cask, barrel, box, syphon, bottle or other container intended for re-use and bearing a trademark, name, or other designation of ownership shall, in any action founded upon ownership of any such container, be prima facie considered to be the property of the owner of such mark, name or other designation, or his licensee. No person, corporate or otherwise, other than the proprietor of any such container, or one acting by his written consent, shall fill for sale or for the purpose of traffic, any such container, or deface, erase, obliterate, cover up, remove or cancel any such name or mark, or refuse to return such container to the owner upon demand. As amended Acts 1962, 57th Leg., 3rd C.S., p. 62, ch. 24, § 17.

Effective 90 days after Feb. 1, 1962, date of adjournment.

Acts 1962, 57th Leg., 3rd C.S. p. 62, ch. 24, § 17 amended this article by repealing

the provisions relating to the use of a trade mark of another and by substituting in lieu thereof the present provisions as they now appear.

Arts. 1061, 1062. Repealed. Acts 1962, 57th Leg., 3rd C.S., p. 62, ch. 24, § 19

Art. 1066. Repealed. Acts 1962, 57th Leg., 3rd C.S., p. 62, ch. 24, § 19

CHAPTER TWELVE—MISCELLANEOUS OFFENSES

<p>Art. 1137b—1. Operation of aircraft while intoxicated [New].</p>	<p>Art. 1137o. Violations of the Real Estate License Act [New].</p>
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Art. 1129a. Repealed. Acts 1963, 58th Leg., p. 550, ch. 205, § 30. Eff. 90 days after May 24, 1963, date of adjournment

See, now, the Texas Regulatory Loan Act, Vernon's Ann.Civ.St. art. 6165b.

Arts. 1134—1136. Repealed. Acts 1963, 58th Leg., p. 269, ch. 113, § 2. Eff. Jan. 1, 1964

See, now, savings and loan act, Vernon's Ann.Civ.St. art. 852a.

Arts. 1136a—1 to 1136a—9. Repealed Acts 1963, 58th Leg., p. 269, ch. 113, § 2. Eff. Jan. 1, 1964

See, now, savings and loan act, Vernon's Ann.Civ.St. art. 852a.

Art. 1137b. Aircraft licenses

Operation of aircraft while intoxicated, see art. 1137b—1.

Art. 1137b—1. Operation of aircraft while intoxicated

Any person who drives, operates or pilots an airplane, aircraft, heavier-than-aircraft, or lighter-than-aircraft, dirigible or balloon within the airspace of the State of Texas or drives, operates or pilots such craft upon a public airstrip within the State of Texas, 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 fifteen (15) days nor more than two (2) years, or by a fine of not less than Two Hundred Dollars (\$200) nor more than One Thousand, Five Hundred Dollars (\$1,500), or by both such fine and imprisonment. Acts 1963, 58th Leg., p. 69, ch. 46, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

or under the influence of intoxicating liquor; and declaring an emergency. Acts 1963, 58th Leg., p. 69, ch. 46.

Title of Act:

An Act providing a penalty for the operation of certain aircraft while intoxicated

Art. 1137e—1. Obtaining telecommunications service with intent to defraud

Expired or revoked credit cards, use for purchase of motor vehicle supplies, see art. 1555b.

Art. 1137f. Protection of aircraft and equipment

Operation of aircraft while intoxicated, see art. 1137b—1.

Art. 1137o. Violations of the Real Estate License Act

Any person who shall wilfully violate or fail to comply with any of the provisions of The Real Estate License Act of Texas or any order of The Texas Real Estate Commission authorized by The Real Estate License Act shall be guilty of a misdemeanor and upon conviction therefor shall be sentenced to pay a fine of not more than Five Hundred Dollars (\$500), or to imprisonment in the county jail for not more than one year, or to both such fine and imprisonment. Added Acts 1963, 58th Leg., p. 850, ch. 325, § 6.

Effective 90 days after May 24, 1963, date of adjournment.

Real Estate License Act, see Vernon's Ann.Civ.St. art. 6573a.

TITLE 15—OFFENSES AGAINST THE PERSON**CHAPTER TWO—AGGRAVATED ASSAULTS AND OTHER OFFENSES****Art. 1151. Assault with a prohibited weapon**

Reporting treatment of gunshot wound indicating violence, see art. 782c.

TITLE 17—OFFENSES AGAINST PROPERTY

CHAPTER TWO—OTHER WILFUL BURNING

Art. 1318. [1214] [770] [665] Burning other buildings, hay, lumber, etc.

Whoever shall wilfully burn any building not a house as defined in the preceding Chapter, or shall wilfully burn any stack of corn, hay, fodder, grain, or flax, or any cotton, baled or loose, or cotton seed, or any pile of boards, lumber, or wood, or any fence or other inclosure, or any automobile, or any other motor vehicle, or vehicle or trailer, the property of another, shall be confined in the penitentiary not less than two (2) nor more than five (5) years, or be fined not exceeding Two Thousand Dollars (\$2,000). As amended Acts 1963, 58th Leg., p. 936, ch. 365, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER THREE—MALICIOUS MISCHIEF

Art.
1377b. Entering enclosed lands without consent of owner to hunt, fish or camp [New].

Art. 1333. Using boat without consent

Water Safety Act, see art. 1722a.

Art. 1333A. Operating motor boat while intoxicated

Water Safety Act, see art. 1722a.

CHAPTER FIVE—BURGLARY

Art.
1402b. Possession of implements used in commission of burglary or safe-cracking [New].

CHAPTER EIGHT—THEFT IN GENERAL

Art. 1429. [1348] [877] [742a] Conversion by a bailee

Section 1. Any person having possession of a motor vehicle, trailer, equipment, or tool, or any other personal property of another by virtue of a contract of hiring or borrowing, or other bailment, who shall without the consent of the owner, fraudulently convert such property to his own use with intent to deprive the owner of the value of the same shall be guilty of theft, and shall be punished as for theft of like property.

Sec. 2. Any person who has obtained a motor vehicle, trailer, equipment, or tool, or any other personal property, under a contract of hiring or borrowing or other bailment, in writing, the failure to return such motor vehicle, trailer, equipment, or tool, or other personal property upon termi-

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nation of said contract of bailment within ten (10) days after being given notice of termination of said contract, shall be prima facie evidence of an intent that such person intended to convert the property to his own use and to deprive the owner of the value of same.

Sec. 3. "Notice" as used herein shall be notice in writing sent by registered or certified mail or telegram, addressed to such person at the place listed on the contract of bailment, and it shall constitute prima facie evidence that such notice was given if any of the following conditions are met:

(a) A return receipt is in the possession of the sender signed by the person to whom it was addressed, or

(b) The envelope has been returned to the sender thereof with a notation thereupon "refused by addressee," or any other notation similar or commonly used by the United States Post Office, or

(c) The telegram has been returned to the sender thereof with a notation thereupon "refused by addressee," or any other notation similar or commonly used by the telegraph office, or

(d) That the envelope is returned to the sender with a stamp normally used by the United States Post Office showing that no such address exists, or

(e) That the envelope is returned to the sender with a stamp normally used by the United States Post Office showing that the person does not live, reside or office at the address so indicated, or

(f) That the telegram is returned to the sender indicating that the person does not live, office or reside at the address so indicated. As amended Acts 1963, 58th Leg., p. 930, ch. 360, § 1

Effective 90 days after May 24, 1963, date of adjournment.

Art. 1436b. Theft and illegal transportation of mercury; felony; defenses

Sec. 3. Any person who shall illegally transport in this state more than one (1) pound of 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 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 (\$100.00) nor more than Five Hundred Dollars (\$500.00), or both such fine and jail imprisonment. As amended Acts 1963, 58th Leg., p. 1100, ch. 426, § 1.

Sec. 3(a). It shall be prima facie evidence that a person is illegally transporting mercury if at such time he does not have in his possession a bill of sale or other written evidence of title to such mercury. Added Acts 1963, 58th Leg., p. 1100, ch. 426, § 1.

Sec. 3(b). It shall be a defense to any charge under Section 3 that the person so charged show, (1) that he actually is engaged in the business of mining or processing of mercury or, (2) that the mercury is an integral part of a tool, instrument or device used by him for a beneficial purpose, or (3) that he is an officer discharging his official duties. Added Acts 1963, 58th Leg., p. 1100, ch. 426, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER THIRTEEN—PROTECTION OF STOCK RAISERS**Art. 1478. [1404] [926] [775] Shipping imported hides**

Stopping and inspecting shipments of livestock or livestock products, see art. 1505b.

CHAPTER FOURTEEN—DISEASES OF ANIMALS AND BEES

Art. 1505b. Stopping and inspecting shipments of livestock or livestock products [New].

Art. 1505b. Stopping and inspecting shipments of livestock or livestock products**Authority to stop and inspect shipments**

Section 1. Agents of the Texas Animal Health Commission shall have the right to stop and inspect all shipments of livestock or livestock products being transported into or through the State of Texas at any point or place en route in order to determine that said shipment is in compliance with all laws, rules, and regulations administered by the Texas Animal Health Commission affecting such shipments, and to see that said shipment did not originate from a quarantined area or herd, and does not represent a danger to the public health or livestock industry through insect infestation or through any infectious, noninfectious, or contagious disease. Livestock products as used in this Act shall mean livestock products capable of carrying diseases and insects, including litter, straw or hay used for bedding that may endanger the livestock industry and includes hides, bones, hoofs, horns, viscera and parts of animal bodies.

Detention; unloading shipment; railroad trains

Sec. 2. If any shipment of livestock or products thereof is being transported contrary to prescribed laws, rules, or regulations, it may be detained until compliance is obtained. This may include unloading said shipment from transporting vehicle at the nearest available unloading facility. Provided, however, that no railroad train shall be inspected except at terminal points.

Violations; fines

Sec. 3. Any person who refuses to permit inspection of any livestock being transported, or fails to stop any truck, trailer, wagon or automobile suspected of carrying livestock or livestock products when requested or signaled to do so by an agent of the Texas Animal Health Commission or violates any provision of this Act shall be fined not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100).

Signs and signals to stop vehicles

Sec. 4. The Texas Animal Health Commission, or its agents, are hereby authorized to post signs on public highways and to use signaling devices such as red lights when necessary in conjunction with signs in order

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effectively to signal and stop livestock vehicles for inspection. Acts 1963, 58th Leg., p. —, ch. 115.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 1522. [1282] [824b] Refusing examination by commission

Any person who owns or is in possession of livestock or dead carcasses or parts thereof, which the Texas Animal Health Commission or its agents has reason to believe to be affected with any infectious or contagious disease, and who refuses to allow the Commission or its agents to examine such stock and the premises, property, or vehicles containing such stock or hinders or obstructs the Commission or its agents in any such examination, shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) for each offense. As amended Acts 1963, 58th Leg., p. 595, ch. 216, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 1525b. Eradicating diseases among live stock and domestic fowls

Definitions

Sec. 1(a). The terms "livestock," "domestic animals," "domestic fowls," and specifically mentioned animals, when used in this Act, shall be construed to include the dead carcasses of such animals or fowls or parts thereof. Added Acts 1963, 58th Leg., p. 595, ch. 216, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER SIXTEEN—SWINDLING AND CHEATING

Art.

1555b. Presentation of credit card with intent to defraud [New].

Art. 1551. [1428] Obtaining board or lodging by trick, etc.; failure or refusal to pay

(a) Every person who shall obtain board or lodging in any hotel or boarding house by means of any trick or deception or false or fraudulent representations, or statement or pretense, and shall fail or refuse to pay therefor, shall be held to have obtained the same with the intent to cheat and defraud such hotel or boarding house keeper, and shall be fined not exceeding One Hundred Dollars (\$100), or be imprisoned in jail not exceeding one (1) month or both.

(b) It shall be unlawful for any person who has obtained lodging, meals or other lawful service at any hotel, motor hotel, inn or tourist court to depart from the premises thereof with the intent not to pay for such services. Failure of any person who has departed from such premises without paying the amount due for such services, and without personally appearing before the room clerk or other agent of the establishment before departing and protesting the amount alleged to be due, to pay the amount due within ten (10) days after being given written notice of the amount due, shall be prima facie evidence of departure with intent not to pay for such services. Any person who violates any provision of this paragraph shall be punished by a fine of not more than Five Hundred Dollars (\$500), or by confinement in the county jail for not more than one

(1) year, or by both such fine and confinement. As amended Acts 1963, 58th Leg., p. 1193, ch. 476, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 1555b. Presentation of credit card with intent to defraud**Credit cards or alleged credit cards; obtaining or paying for items of value or services**

Section 1. It shall be unlawful for any person to present a credit card or alleged credit card, with the intent to defraud, to obtain or attempt to obtain any item of value or service of any type; or to present such credit card or alleged credit card, with the intent to defraud, to pay for items of value or services rendered.

Expired or revoked credit cards; notice

Sec. 2. It shall be unlawful for any person to present a credit card, with the intent to defraud, which has expired or has been revoked with the knowledge of such expiration or revocation. The presentation of an expired or revoked card to obtain or attempt to obtain any item of value, service of any type, or to pay for such items of value or services rendered shall be prima facie evidence of knowledge that such credit card had expired or had been revoked, if the person making such presentation shall not have paid to the person so honoring or issuing the card the total amount charged for the items of value or services within ten (10) days after being given notice from such person so honoring or issuing the card that said credit card had expired or been revoked at the time the purchase was made, which notice shall also state the amount due on such purchase.

The term "notice" as used herein shall be notice in writing, sent by registered or certified mail or telegram, addressed to said person at his address, or to the address appearing on the card, or to the address of the person or business organization to whom the credit card was issued as it appears on the records of the person or organization honoring or issuing such credit, and proof of compliance with this Section shall constitute prima facie evidence that such notice was given.

Definitions

Sec. 3. The term "credit card" as used herein means an identification card, plate, coupon, book, device or number issued to a person, association of persons, or corporation by a person or business organization which permits such persons, associations of persons, or corporations to attempt to obtain, obtain, or pay for items of value or services of any type, irrespective of whether such items of value or services can be obtained or paid for by a credit card issued by the person or business organization offering the items of value or services or by another person or entity engaged in providing credit facilities for said person or business organization.

The terms "to present a credit card or alleged credit card" and "to present a credit card, with the intent to defraud, which has expired or has been revoked" shall mean not only physical presentation of such card but also shall include the representation by the person attempting to obtain, obtaining or paying for items of value or services that such card is valid and exists, and the person so honoring such card relies on such statement from the person making its presentation.

Violations, convictions and punishments

Sec. 4. (a) For the first conviction of a violation of this Act, in the event the amount of the credit obtained or the value of the items or services is less than Fifty Dollars (\$50), punishment shall be by imprisonment in the county jail for not exceeding two (2) years, and by a fine not exceeding One Thousand Dollars (\$1,000).

(b) If it be shown on the trial of a case involving a violation of this Act in which the amount of the credit obtained or the value of the items or services is less than Fifty Dollars (\$50) that the defendant has been once before convicted of the same offense, he shall, on his second conviction, be punished by confinement in the county jail for not less than thirty (30) days nor more than two (2) years, and by a fine not exceeding Two Thousand Dollars (\$2,000).

(c) If it be shown upon the trial of a case involving a violation of this Act where the amount of the credit obtained or the value of the items or services is less than Fifty Dollars (\$50), that the defendant has two or more times before been convicted of the same offense, regardless of the amount of the credit obtained or the value of the items or services involved in the first two (2) convictions, upon the third or any subsequent conviction, the punishment shall be by confinement in the penitentiary for not less than two (2) nor more than ten (10) years.

(d) For a violation of this Act, in the event the amount of the credit obtained or the value of the items or services is Fifty Dollars (\$50) or more, punishment shall be confinement in the penitentiary for not less than two (2) years nor more than ten (10) years. Acts 1959, 56th Leg., p. 885, ch. 408, as amended Acts 1963, 58th Leg., p. 460, ch. 162, § 1.

Service of process; witnesses

Sec. 5. In all prosecutions under this Act, process shall be issued and served in the county or out of the county where prosecution is pending and have the same binding force and effect as though the offense being prosecuted were a felony; and all officers issuing and serving such process in or out of the county wherein the prosecution is pending, and all witnesses from within or without the county wherein the prosecution is pending shall be compensated in like manner as though the offense were a felony in grade. Added Acts 1963, 58th Leg., p. 460, ch. 162, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TITLE 18—LABOR

CHAPTER FOUR—EMPLOYMENT OF CHILDREN

Art.
1578b. Violations [New].

Art. 1577. Exemptions

Upon application being made to the County Judge of any county in which any child over the age of fourteen (14) years shall reside, the earnings of which child are necessary for the support of itself, its mother when widowed or in needy circumstances, invalid father, or of other children younger than the child for whom the permit is sought, the said County Judge may upon the affidavit of such child or its parents or guardian, that the child for whom the permit is sought is over fourteen (14) years of age, that the said child has completed the seventh grade in a public school, or its equivalent, that it shall not be employed in or around any mill, factory, workshop, or other place where dangerous machinery is used, nor in any mine, quarry or other place where explosives are used, or where the moral or physical condition of such child is liable to be injured, and that the earnings of such child are necessary for the support of such invalid parent, widowed mother or mother in needy circumstances, or of younger children, and that such support cannot be obtained in any other manner, and that suitable employment has been obtained for such child, which affidavit shall be accompanied by the certificate of a licensed physician showing that such child is physically able to perform the work or labor for which the permit is sought, issue a permit for such child to enter such employment. Every person, firm, or corporation employing such child shall post in a conspicuous place where such child is employed, the permit issued by the County Judge; provided that no permit shall be issued for a period longer than twelve (12) months, but may be renewed from time to time upon satisfactory evidence being produced that the conditions under which the former permit was issued still exist, and no physical or moral injury has resulted to such child by reason of its employment. In every case where a permit is sought for any child, the parent, guardian or other person in charge or control of such child shall appear before the County Judge in person with such child for whom a permit is sought before such permit shall be issued. Nothing in this Act shall prevent the working of school children of any age from June 1 to September 1 of each year except that they shall not be permitted to work in a factory, mill, workshop, or any other place where the employment of children is prohibited by law. As amended Acts 1963, 58th Leg., p. 676, ch. 249, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

Acts 1963, 58th Leg., p. 676, ch. 249, §§ 2, 3 amended article 1578a and added article

1578b. Section 4 of the Act of 1963 repealed Vernon's Ann.Civ.St. art. 5181 and all conflicting laws and parts of laws.

Art. 1578a. Exceptions

Provided that nothing in this Act shall be construed as prohibiting the employment by any person of nurses, maids, yard servants or others for private houses and families, regardless of their age. Nothing in this Act shall apply to the employment at farm labor of the members of the

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

family of a farmer, rancher, or dairyman on their own premises, whether owned or leased. As amended Acts 1963, 58th Leg., p. 676, ch. 249, § 2.

Effective 90 days after May 24, 1963, date of adjournment.

Art. 1578b. Violations

Any parent or guardian of any child, or any person who has custody of any child, who knowingly permits such child to accept or continue employment in violation of Articles 1573, 1574, 1575, 1576, or 1577 (Vernon's Penal Code of Texas) shall be fined or imprisoned, or both, in such manner as would be any person, or agent, or employee of any person, firm, or corporation who violates the provisions of any of such Articles. Added Acts 1963, 58th Leg., p. 676, ch. 249, § 3.

Effective 90 days after May 24, 1963, date of adjournment.

Denial of right to work because of age, see Vernon's Ann.Civ.St. art. 6252—14.

TITLE 19—MISCELLANEOUS OFFENSES

CHAPTER THREE—TRUSTS AND CONSPIRACIES AGAINST
TRADE

Savings Provision

Acts 1963, 58th Leg., p. 598, ch. 218, which regulates vegetable dealers, and which is incorporated in the Revised Civil Statutes as Vernon's Ann.Civ.St. art. 1287—3, §§ 1—24, provides in section 23 that nothing in the Act shall be construed as amending, modifying, suspending or repealing any of the laws of this State defining and prohibiting trusts, monopolies, and conspiracies against trade, with particular reference to Chapter 3, Title 19 of the Penal Code.

CHAPTER TEN A

Art. 1700a—3. Dealers, handlers, transporting agents and buying agents; license requirements; bond; penalties

From and after the effective date of this Act any person who shall:

(a) Act as a dealer and/or handler, as the terms "dealer" and/or "handler" are in this Act defined, without first obtaining a license to act as such dealer and/or handler, shall be fined not to exceed Two Hundred Dollars (\$200), and each day upon which any dealer or handler shall act or assume to act in violation of the requirements of this Act shall constitute a separate offense.

(b) Act or assume to act as a transporting agent or buying agent as the terms are herein defined, without first obtaining from the Commissioner of Agriculture of the State of Texas a license or a buying agent's or a transporting agent's card as by the terms and provisions of this Act required, shall be fined not to exceed Two Hundred Dollars (\$200), and each day upon which any buying agent or transporting agent shall act or assume to act in violation of the requirements of this Act shall constitute a separate offense.

(c) Any buying or transporting agent who ceases to be employed by a dealer or handler or the agent of any dealer or handler to whom such buying agent's or transporting agent's card was issued and who fails and refuses on the termination of such employment to turn over to the Commissioner of Agriculture the buying or transporting agent's card issued to such person shall be fined not to exceed Two Hundred Dollars (\$200).

(d) Any person who shall act or assume to act as a commission merchant and/or dealer or a contract dealer, as the terms "commission merchant" and/or "dealer" or "contract dealer" are used in this Act without first filing with the Commissioner of Agriculture of the State of Texas the bond as required by this Act and obtaining a license to act as such commission merchant and/or dealer or contract dealer shall be fined not to exceed Two Hundred Dollars (\$200), and each day upon which such person shall act or assume to act as such commission merchant and/or dealer or contract dealer shall constitute a separate offense.

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

(e) Any licensee or any transporting or buying agent of any licensee under this Act who shall violate any of the terms and provisions of this Act shall be fined not to exceed Two Hundred Dollars (\$200). As amended Acts 1963, 58th Leg., p. 312, ch. 117, § 6.

Effective 90 days after May 24, 1963, date of adjournment.

CHAPTER SIXTEEN—BOMBS

Art.

1723a. False information concerning presence of bomb [New].

Art. 1723a. False information concerning presence of bomb

Whoever wilfully imports or conveys or wilfully causes to be imported or conveyed false information concerning the presence at any place of a bomb or other explosive or incendiary device shall be confined in the county jail not less than three (3) days nor more than sixty (60) days and shall be fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500). Acts 1963, 58th Leg., p. 936, ch. 366, § 1.

Effective 90 days after May 24, 1963, date of adjournment

CHAPTER EIGHTEEN—FIREWORKS [NEW]

Art. 1725. Regulation and offenses as to fireworks

License Fees

Sec. 5. A. A license fee of \$500.00 per year, due and payable on or before February 1st of each and every year beginning February 1, 1958, to the State Fire Marshal subject to the provisions of Section 12 of this Act, will be charged for the permit to manufacture, possess and sell fireworks. The manufacturer may manufacture, possess and sell items other than those enumerated in Section 2, but for sale and delivery only to states where other types of fireworks are legal but may not be sold or used in the State of Texas.

The same license fee will apply to and shall be paid by any and all out-of-state manufacturers offering goods for sale in the State of Texas, as a condition to their sale in Texas.

B. A similar license fee of \$750.00 annually, due and payable on February 1st of each and every year, as provided in Section 5A above, will be charged all distributors who possess and sell the fireworks enumerated in Section 2.

The license fee provided herein shall be due and payable by all out-of-state distributors offering goods for sale within the State of Texas.

C. A license fee, due and payable as provided in Section 5A above, of \$500.00 per year, will be charged all jobbers who possess and sell the fireworks enumerated in Section 2.

The license fee provided herein shall apply to and be payable by out-of-state jobbers as a condition for selling within the State of Texas.

D. An annual license fee of Two Dollars (\$2.00) will be charged all retailers who possess and sell fireworks enumerated in Section 2, for

which an annual retailer's license shall be issued effective until midnight of the following 31st day of January. No person, firm or corporation shall offer fireworks for sale to individuals at retail before the 24th day of June and after the 4th day of July, or the 15th day of December of each year and after midnight of the 1st day of January of the following year. As amended Acts 1963, 58th Leg., p. 1103, ch. 429, § 1.

Effective January 1, 1964.

CODE OF CRIMINAL PROCEDURE

TITLE 2—COURTS AND CRIMINAL JURISDICTION

TRAVIS COUNTY—147TH JUDICIAL DISTRICT COURT

Art. 52—61a. 147th Judicial District Court of Travis County

Section 1. There is hereby created the 147th Judicial District to be composed of and to have its boundaries coextensive with the boundaries of Travis County, Texas; and the Criminal District Court of Travis County is hereby designated and created as the 147th Judicial District Court of Travis County, Texas.

Sec. 2. The 147th Judicial District Court of Travis County, Texas, shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the Constitution and laws of the State of Texas to District Courts; provided, however, that such Court shall give preference to criminal matters.

Sec. 3. The present Judge of the Criminal District Court of Travis County, Texas, duly elected and acting as such, shall be the Judge of this Court and shall henceforth be known as the Judge of the 147th Judicial District Court of Travis County, and shall exercise all the powers and duties now or hereafter vested in and exercised by District Judges. He shall continue to serve as Judge of such Court until his present term of office expires and until his successor is elected and qualified as provided in the Constitution and laws of this State. He shall have the qualifications provided by the Constitution and laws of this State for District Judges of Travis County.

Sec. 4. All appropriations heretofore made and hereafter made for the payment of the salaries and expenses of the Judge of the Criminal District Court of Travis County shall be made available for the payment of the salary and expenses of the Judge of the 147th Judicial District Court of Travis County.

Sec. 5. The 147th Judicial District Court of Travis County, Texas, shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, such terms to be as follows:

Beginning on the first Monday of January of each year and may continue until the first Monday of April; beginning on the first Monday of April and may continue until the first Monday of July; beginning on the first Monday of July and may continue until the first Monday of October; beginning on the first Monday of October and may continue until the first Monday of January of the following calendar year. A grand jury shall be impaneled in said Court for each term thereof in the same manner as is now or may hereafter be required by law in District Courts and under like rules and regulations. The Judge of said Court may also impanel other grand juries at any time as in his judgment is necessary.

by an order entered in the minutes of the Court. The other District Courts of Travis County shall be relieved of the mandatory duty of impaneling grand juries but may impanel same in their discretion when necessary in accordance with the provisions of law.

Sec. 6. The Judge of the 147th Judicial District Court of Travis County and the Judge of each other District Court of Travis County may in their discretion exchange benches and hear cases for each other in the same manner as the Judge of each of such District Courts of Travis County may now do as provided by law, and cases may be transferred from such District Courts to other District Courts within Travis County as is provided by law by appropriate orders made and entered on the docket of the Court so transferring same. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same, or may hear or determine any question in any case, and any other of said Judges may complete the hearing and render judgment in the case.

Sec. 7. On and after the effective date of this Act, all processes, writs, bonds, recognizances, or other obligations issued out of the Criminal District Court of Travis County or made returnable thereto, are hereby made returnable to the 147th Judicial District Court of Travis County, Texas, and all bonds executed and recognizances entered into in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Court as are fixed by law and by this Act; and all processes heretofore issued or returned, as well as all bonds and recognizances heretofore taken in the Criminal District Court of Travis County, Texas, shall be valid and binding.

Sec. 8. The 147th Judicial District Court shall have a seal of like design as now provided by law for District Courts in this State, which seal shall be used for all purposes for which seals of District Courts are required to be used; and certified copies of the orders, proceedings, judgments, and other official acts of said Court, under the hand of the Clerk and attested by the seal of said Court, shall be admissible in evidence in all courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 9. The Sheriff, District Attorney, County Attorney, and the Clerk of the District Courts of Travis County, as heretofore provided by law shall be the Sheriff, District Attorney, County Attorney, and Clerk, respectively, of the 147th Judicial District Court under the same rules and regulations as are now or may hereafter be prescribed by law for Sheriffs, District Attorneys, County Attorneys, and Clerks of the District Courts of the State; and the Sheriff, District Attorney, County Attorney, and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of this State to be paid in the same manner.

Sec. 10. The Judge of said 147th Judicial District Court shall have the right to appoint an official Court Reporter who shall have the qualifications and receive the same compensation as are now or may hereafter be fixed by law for Court Reporters in District Courts. Acts 1957, 55th Leg., p. 721, ch. 299, as amended Acts 1963, 58th Leg., p. 120, ch. 71, § 1.

Effective 90 days after May 24, 1963, date of adjournment.

TARRANT COUNTY CRIMINAL DISTRICT COURT

Art. 52—82. Same; powers and duties

It shall be the duty of said Criminal District Attorney or his assistants as herein provided to be in attendance upon each term and all sessions of the Criminal District Court of Tarrant County and of all sessions and terms of the County Court of Tarrant County, Texas, held for the transaction of criminal business, and to represent the state in all matters pending before said courts, and to represent Tarrant County in all matters pending before such courts, the Commissioners Court of Tarrant County and Justice Courts and any other courts where said Tarrant County has pending business of any kind or matter of concern or interest; provided, however, the Commissioners Court may employ the services of the Criminal District Attorney or his assistants, or if the court elects to do so it may employ special counsel of its own choice, learned in the law, to represent the county in all condemnation proceedings for the acquisition of right-of-way for highways and proper purposes where the right of eminent domain is given to the county; and particularly with authority to render aid and work with the Commissioners Court, the county engineer and other county employees in the preparation of documents necessary in the acquisition of rights-of-way for the county, or in cases where the county is required to obtain right-of-way for state highways, or to assist in the acquisition of such rights-of-way. Such employment may be made for such time and on such terms as the Commissioners Court may deem proper and expedient; provided, however, that the compensation for such employment shall be paid out of the Road and Bridge fund of Tarrant County. The Criminal District Attorney of Tarrant County shall have and exercise in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within such criminal district of Tarrant County as are by law now conferred, or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this state except in regard to condemnation proceedings where the Commissioners Court elects to hire a special counsel. As amended Acts 1963, 58th Leg., p. 860, ch. 329, § 1.

Emergency. Effective May 27, 1963.

Acts 1963, 58th Leg., p. 860, ch. 329,
§ 2 repealed all conflicting laws and parts
of laws.

JEFFERSON COUNTY CRIMINAL DISTRICT COURT

Art. 52—160b. Criminal Judicial District of Jefferson County

Section 1. There is hereby created and established a Criminal Judicial District of Jefferson County, Texas, to be composed of the County of Jefferson, State of Texas alone, and which District is coextensive with the territorial boundaries and limits of Jefferson County, Texas.

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Jefferson County, Texas, at the regular election in November, 1950, and at the regular November election each four (4) years thereafter, an attorney for said District who shall be styled "Criminal District Attorney of Jefferson County" and who shall hold his office for a period of four (4) years and until his successor is elected and qualified. The said Criminal District Attorney of Jefferson County shall pos-

sess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State of other District Attorneys.

Sec. 3. It shall be the duty of said Criminal District Attorney of Jefferson County, or his assistants, as herein provided, to be in attendance upon each term and all sessions of the Criminal District Court of Jefferson County, all other District Courts in Jefferson County, Texas, and of all inferior courts of Jefferson County, except corporation or municipal courts of Jefferson County, held for the transaction of criminal business, and to represent the State of Texas in all matters pending before said Courts and to represent Jefferson County in all matters pending before such Courts or any other Court where Jefferson County has pending business of any kind, matter or interest. The Criminal District Attorney of Jefferson County shall have and exercise, in addition to the specific powers given and the duties imposed upon him by this Act, all powers, duties and privileges within such Criminal Judicial District of Jefferson County, Texas, as are by law now conferred, or which may hereafter be conferred upon District and County Attorneys in the various counties and Judicial Districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by District or County Attorneys of this State.

Sec. 4. The Criminal District Attorney of Jefferson County shall be commissioned by the Governor and shall receive as salary and compensation a sum of not less than Twelve Thousand Dollars (\$12,000) nor more than Sixteen Thousand, Five Hundred Dollars (\$16,500) per annum as shall be fixed by the Commissioners Court of Jefferson County, to be paid out of the Officer's Salary Fund of Jefferson County if adequate; if inadequate, the Commissioners Court shall transfer necessary funds from the General Fund of the County to the Officer's Salary Fund.

Sec. 5. The Criminal District Attorney of Jefferson County, for the purpose of conducting the affairs of this office, shall appoint such Assistant Criminal District Attorneys, Investigators, Court Reporters, Stenographers, Secretaries and other employees as he may deem adequate and necessary with the approval of the Commissioners Court of such County. All Assistant Criminal District Attorneys, Investigators, Court Reporters, Stenographers, Secretaries and other employees so appointed shall be paid such salaries, and receive such other compensation and reimbursement as may be set by the Criminal District Attorney and the Commissioners Court of Jefferson County. All of the salaries shall be paid from the Officer's Salary Fund if adequate; if inadequate, the Commissioners Court may pay such salaries out of the General Fund, the Jury Fund, or any other fund available for the purpose.

Sec. 6. The Assistant Criminal District Attorneys of Jefferson County, and Investigators, when so appointed, shall take the Constitutional Oath of Office, and said Assistant Criminal District Attorneys shall exercise any and every power and perform any and every duty conferred and imposed by law upon the Criminal District Attorney of Jefferson County under the supervision and direction of the Criminal District Attorney of Jefferson County. As amended Acts 1963, 58th Leg., p. 727, ch. 267, § 1.

Effective 90 days after May 24, 1963,
date of adjournment.

TITLE 7—AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

CHAPTER ONE—ORGANIZATION OF THE GRAND JURY

Art. 367. [418] [406] Bailiffs appointed

Appointment of bailiff for 24th and 135th Judicial Districts, see Vernon's Ann.Civ. St. art. 2292a.

Art. 367c—1. Grand jury bailiffs in counties of 600,000 to 800,000; compensation

The Judges of the District Courts to which the Grand Jury reports in any county having a population of not less than six hundred thousand (600,000) inhabitants and not more than eight hundred thousand (800,000) inhabitants, according to the last preceding or any future Federal Census, shall appoint Grand Jury Bailiffs, not exceeding seven (7), whose compensation shall be not less than Three Thousand Dollars (\$3,000) 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 District Court or Courts to which the Grand Jury reports. As amended Acts 1963, 58th Leg., p. 1007, ch. 414, § 1.

Emergency. Effective June 5, 1963.

TITLE 13—INQUESTS

1. UPON DEAD BODIES

Art. 989a. Medical examiners

Office Authorized

Section 1. Subject to the provisions of this Act, the Commissioners Court of any county having a population of more than five hundred thousand (500,000) and not having a reputable medical school as defined in Articles 4501 and 4503, Revised Civil Statutes of Texas, shall establish and maintain the office of Medical Examiner and in all counties having a population not less than one hundred twenty thousand (120,000), the Commissioners Courts of such counties may establish and provide for the maintenance of the office of Medical Examiner. Population shall be according to the last preceding Federal Census. As amended Acts 1963, 58th Leg., p. 934, ch. 363, § 1.

Effective Jan. 1, 1965.

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P.C. Indicates Penal Code.
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ABBREVIATIONS

Bus Corp -----	Business Corporation Act.
CCP -----	Code of Criminal Procedure.
Const -----	Constitution.
Elec Code -----	Election Code.
Ins Code -----	Insurance Code.
PC -----	Penal Code.
Prob Code -----	Probate Code.
RCP -----	Rules of Civil Procedure.
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