

Texas Historical Statutes Project

1945 SUPPLEMENT
TO
VERNON'S TEXAS STATUTES 1936



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VERNON'S TEXAS STATUTES

CENTENNIAL EDITION

1945 SUPPLEMENT

Covering
Laws of General Nature Enacted by the Legislature
at the Regular Session From
January 9, 1945 to January 1, 1946

49th Legislature, Regular Session

TABLES AND INDEX

KANSAS CITY, MO.
VERNON LAW BOOK COMPANY

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TEX. ST. SUPP. '45

THIS VOLUME

THIS 1945 supplement to Vernon's 1936 Centennial Edition contains the laws of a general and permanent nature passed at the Regular Session of the 49th Legislature and connects directly with Vernon's 1943 Supplement.

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

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

Acknowledgment. The publisher extends appreciative thanks to the office of the Secretary of State as well as other officials for guidance and suggestions during the course of the work.

VERNON LAW BOOK COMPANY

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JUDGES AND OFFICERS

Supreme Court

JAMES P. ALEXANDER, CHIEF JUSTICE
JOHN H. SHARP, JUSTICE JOHN EDWARD HICKMAN,¹ JUSTICE
GORDON SIMPSON, JUSTICE C. S. SLATTON,¹ JUSTICE
GRAHAM B. SMEDLEY,¹ JUSTICE FEW BREWSTER,¹ JUSTICE
W. W. TAYLOR,¹ JUSTICE A. J. FOLLEY,¹ JUSTICE
GEORGE TEMPLIN, CLERK

Court of Criminal Appeals

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

Courts of Civil Appeals

First District—Galveston

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

Second District—Fort Worth

ATWOOD McDONALD, CHIEF JUSTICE
MARVIN H. BROWN, JUSTICE JOHN SPEER, JUSTICE
SAM B. CROW, CLERK

Third District—Austin

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

Fourth District—San Antonio

EDWARD W. SMITH, CHIEF JUSTICE
W. O. MURRAY, JUSTICE JAMES R. NORVELL, JUSTICE
ROBERT L. COOK, CLERK

¹ Took office as Justice Vice Commissioner September 21, 1945.

JUDGES AND OFFICERS

Courts of Civil Appeals—Cont'd.

Fifth District—Dallas

JOEL R. BOND, CHIEF JUSTICE

B. F. LOONEY, JUSTICE
TOWNE YOUNG, JUSTICE
JUSTIN G. BURT, CLERK

Sixth District—Texarkana

REUBEN A. HALL, CHIEF JUSTICE

I. N. WILLIAMS, JUSTICE
R. H. HARVEY, JUSTICE
M. E. MERRILL,² CLERK
R. B. HOLLINGSWORTH,³ CLERK

Seventh District—Amarillo

E. L. PITTS, CHIEF JUSTICE

W. N. STOKES, JUSTICE
WM. Q. BOYCE, JUSTICE
ELMO PAYNE, CLERK

Eighth District—El Paso

P. R. PRICE, CHIEF JUSTICE

C. R. SUTTON, JUSTICE
JOSEPH MCGILL, JUSTICE
J. I. DRISCOLL, CLERK

Ninth District—Beaumont

THOMAS B. COE, CHIEF JUSTICE

R. L. MURRAY, JUSTICE
CHARLES B. WALKER, JUSTICE
W. G. WOODARD, CLERK

Tenth District—Waco

BEN H. RICE, JR., CHIEF JUSTICE

JAKE TIREY, JUSTICE
JOSEPH W. HALE, JUSTICE
RUTH SAPP, CLERK

Eleventh District—Eastland

WILLIAM PHARMER LESLIE,⁴ CHIEF JUSTICE

CLYDE GRISSOM, JUSTICE
M. S. LONG, JUSTICE
DAN CHILDRESS, CLERK

² Appointed July 11, 1945.

³ Died July 8, 1945.

⁴ Died July 31, 1945.

OFFICIALS
OF
THE STATE OF TEXAS

GOVERNOR - - - - - Coke R. Stevenson - - - Junction
LIEUTENANT GOVERNOR - - John Lee Smith - - Throckmorton
SECRETARY OF STATE - - - Claude Isbell - - - - - Rockwall
ATTORNEY GENERAL - - - Grover Sellers - - Sulphur Springs

OFFICERS AND MEMBERS OF THE FORTY-NINTH LEGISLATURE

SENATE

PRESIDENT ----- John Lee Smith
 PRESIDENT PRO TEMPORE ----- George Moffett
 SECRETARY OF THE SENATE ----- Noel K. Brown

<i>Name</i>	<i>District</i>
Aikin, A. M., Jr.	Paris - - - - - 8
Brown, Buster - - - - -	Temple - - - - - 21
Bullock, Pat - - - - -	Colorado City - - - - - 24
Carney, Howard A. - - - - -	Atlanta - - - - - 1
Chadick, T. C. - - - - -	Quitman - - - - - 7
Crawford, A. B. - - - - -	Granbury - - - - - 12
Graves, W. C. - - - - -	Dallas - - - - - 11
Hazlewood, Grady - - - - -	Amarillo - - - - - 31
Jones, Chas. R. - - - - -	Bonham - - - - - 9
Kelley, Rogers - - - - -	Edinburg - - - - - 27
Knight, Roger A. - - - - -	Madisonville - - - - - 5
Lane, Wardlow W. - - - - -	Center - - - - - 2
Lanning, R. C. - - - - -	Jacksboro - - - - - 22
Martin, Jesse E. - - - - -	Fort Worth - - - - - 28
Mauritz, Fred - - - - -	Ganado - - - - - 18
Metcalfe, Penrose B. - - - - -	San Angelo - - - - - 25
Moffett, George - - - - -	Chillicothe - - - - - 23
Moore, Weaver - - - - -	Houston - - - - - 16
Morris, G. C. - - - - -	Greenville - - - - - 10
Parrish, Sterling J. - - - - -	Lubbock - - - - - 30
Ramsey, Ben - - - - -	San Augustine - - - - - 3
Shivers, Allan - - - - -	Port Arthur - - - - - 4
Spears, J. Franklin - - - - -	San Antonio - - - - - 26
Stanford, James A. - - - - -	Austin - - - - - 20
Stone, William E. - - - - -	Galveston - - - - - 17
Sulak, L. J. - - - - -	LaGrange - - - - - 15
Taylor, James E. - - - - -	Kerens - - - - - 6
Vick, Kyle - - - - -	Waco - - - - - 13
Weinert, R. A. - - - - -	Seguin - - - - - 19
Winfield, H. L. - - - - -	Fort Stockton - - - - - 29
York, J. Alton - - - - -	Bryan - - - - - 14

HOUSE OF REPRESENTATIVES

SPEAKER - - - - - C. H. Gilmer
 CHIEF CLERK - - - - - Clarence Jones

<i>Name</i>	<i>District</i>
Adams, George E. - - - - - Bryan - - - - -	26
Allison, Mack - - - - - Stephenville - - - - -	105
Atkinson, H. L. - - - - - Beeville - - - - -	70
Baker, Noel C. - - - - - Gilmer - - - - -	4
Barber, W. A. - - - - - Linden - - - - -	2
Barnes, Cecil H. - - - - - San Angelo - - - - -	91
Bell, John J. - - - - - Cuero - - - - -	68
Bell, Marshall O. - - - - - San Antonio - - - - -	78-4
Blankenship, Dallas A. - - - - - Dallas - - - - -	50-5
Bond, Thos. R. - - - - - Terrell - - - - -	52
Bridgers, W. W. - - - - - El Paso - - - - -	89-2
Brown, Sherwood, Jr. - - - - - Galveston - - - - -	17f
Bundy, M. A. (Bill) - - - - - Wichita Falls - - - - -	111-2
Calhoun, George G. - - - - - Austin - - - - -	82-1
Callaway, Claude - - - - - Crowell - - - - -	114
Cato, Arthur - - - - - Weatherford - - - - -	103
Celaya, Augustine - - - - - Brownsville - - - - -	72
Chambers, W. R. - - - - - May - - - - -	125
Chapman, E. O. - - - - - Sulphur Springs - - - - -	39
Coker, A. W. - - - - - Huntsville - - - - -	29
Colson, Mrs. Neveille H. - - - - - Navasota - - - - -	27f
Conner, C. M. - - - - - Haskell - - - - -	113
Counts, Paul - - - - - Mineral Wells - - - - -	108
Cousins, W. R., Jr. - - - - - Beaumont - - - - -	15f
Covey, E. L. - - - - - Bowie - - - - -	47
Crawford, Carlton - - - - - Palacios - - - - -	21
Crosthwait, John L. - - - - - Dallas - - - - -	50-1
Cummings, J. W. - - - - - Ivanhoe - - - - -	41
Davis, Harry L., Jr. - - - - - Boerne - - - - -	85
Deen, Tom W. - - - - - Floydada - - - - -	120
Donnell, J. R. - - - - - Corsicana - - - - -	58
Duckett, L. L. - - - - - East Bernard - - - - -	22
Dunn, Winford L. - - - - - De Kalb - - - - -	1
Elliott, Elmer - - - - - Dalhart - - - - -	124
Ellis, J. T. - - - - - Maxwell - - - - -	81-1
Evans, Roger Q. - - - - - Denison - - - - -	45f
Fant, J. P. - - - - - Jefferson - - - - -	3f
Favors, Ennis - - - - - Pampa - - - - -	122
Fenley, Mrs. Florence - - - - - Uvalde - - - - -	77
Fertsch, Marvin D. - - - - - Hallettsville - - - - -	23

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
Foster, Bill	Waco - 97-2
Gandy, Joe W.	Winnsboro - 126f-
Gardner, C. C.	Gainesville - 46
Gathings, D. D.	Cleburne - 99
Gerron, O. E.	Odessa - 88
Gray, J. F.	Three Rivers - 76
Green, A. N.	Cameron - 64
Greer, Julian P.	Elkhart - 55
Grisham, R. N.	Eastland - 106
Hanna, Sam	Dallas - 50-3
Harrell, E. F.	Paris - 38f
Harris, Joe	Houston - 19-1
Hartzog, Howard G.	Port Lavaca - 69
Heflin, J. M.	Houston - 19-4
Helpinstill, Jewell	Nacogdoches - 9
Henderson, A. R. (Robin)	Groesbeck - 61
Holstein, L. L.	Pandora - 79
Hoyo, John C.	San Antonio - 78-5
Huddleston, Earl	Oglesby - 94
Hull, H. A. (Salty)	Fort Worth - 101-3
Humphrey, Joe C.	Abilene - 116
Hydrick, Isom P. (Bill) Jr.	Marshall - 5
Isaacks, S. J.	El Paso - 89-1
Johnson, Hayes	Mt. Pleasant - 35
Jones, Albert M.	Valley Mills - 98f
Jones, Fred	Lone Oak - 40
Jordan, Harry P.	Waco - 97-1
Kirby, Dann	El Paso - 90f
Lanier, Gus M.	Marquez - 56
Lansberry, Chas. V.	Round Rock - 84f
Lee, Hubert A.	Paducah - 121
Lehman, Henry G.	Giddings - 65f
Leonard, Homer L.	McAllen - 73
Leslie, F. H.	Hillsboro - 59
Leyendecker, B. J.	Laredo - 75
Lightfoot, C. G.	Timpson - 10
Little, G. H. (Jack)	Amarillo - 123
Lock, John T.	Laneville - 8
Lock, Ottis E.	Zavalla - 12
Love, Jack	Fort Worth - 101-1
Lucas, Jap Hugh	Athens - 54
Luedemann, J. A.	Brenham - 24
Mabe, Jake M.	Eagle Pass - 87
McAlister, Obel L.	Fort Worth - 101-2
McFarland, C. M.	Wichita Falls - 111-1
McLellan, C. S.	Eagle Lake - 25

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
McMurry, Houston - - - - -	Henrietta - - - - - 110
Manford, Durwood - - - - -	Smiley - - - - - 67
Mangum, Ed. P. - - - - -	Greenville - - - - - 42f
Mangum, Preston P. - - - - -	Dallas - - - - - 51f
Markle, Donald M. - - - - -	Galveston - - - - - 18
Messer, Lon T. - - - - -	Robstown - - - - - 71
Mills, Roger Q. - - - - -	Wichita Falls - - - - - 112f
Montgomery, Wm. Calvin - - - - -	Houston - - - - - 19-3
Moore, Carlton - - - - -	Houston - - - - - 19-2
Moore, Grady - - - - -	Clarksville - - - - - 36
Moore, O. H. - - - - -	De Leon - - - - - 104
Morgan, M. B. - - - - -	Denison - - - - - 44-2
Nicholson, C. E. - - - - -	Port Neches - - - - - 16-2
Parkhouse, George - - - - -	Dallas - - - - - 50-4
Parton, Luman - - - - -	Marlin - - - - - 62
Pearson, L. R. - - - - -	Ranger - - - - - 107f
Peterman, Hugh B. - - - - -	Celina - - - - - 43
Pickens, J. D. - - - - -	Anson - - - - - 115
Pigg, Charlie - - - - -	Waxahachie - - - - - 100-2
Price, Ned - - - - -	Tyler - - - - - 32
Proffer, R. L. (Bob) - - - - -	Denton - - - - - 49
Pruett, Harry D. - - - - -	Austin - - - - - 82-2
Pruett, J. B. (Jack) - - - - -	Slidell - - - - - 48
Rampy, W. H. - - - - -	Winters - - - - - 92
Ramsey, Mervyn L. - - - - -	Beckville - - - - - 7
Read, David - - - - -	Silsbee - - - - - 14
Reader, R. L. - - - - -	San Antonio - - - - - 78-2
Reed, W. O. - - - - -	Dallas - - - - - 50-2
Roark, W. W. - - - - -	Temple - - - - - 95
Sadler, Harley - - - - -	Sweetwater - - - - - 117
Sallas, J. B. - - - - -	Crockett - - - - - 30
Sellers, Sam - - - - -	Waco - - - - - 96f
Senterfitt, R. E. - - - - -	San Saba - - - - - 93
Sharpe, Ben - - - - -	Paris - - - - - 37
Simpson, Marvin B., Jr. - - - - -	Fort Worth - - - - - 101-4
Smith, A. B. - - - - -	Fort Worth - - - - - 102f
Smith, J. O. - - - - -	Elgin - - - - - 127
Smith, Max C. - - - - -	San Marcos - - - - - 81-2
Smith, N. F. (Dick) - - - - -	Jacksboro - - - - - 109
Smith, Preston E. - - - - -	Lubbock - - - - - 119
Smith, Will Lee - - - - -	Beaumont - - - - - 16-1
Spacek, R. B. - - - - -	Fayetteville - - - - - 66
Sparks, James T. - - - - -	Sherman - - - - - 44-1
Still, Mrs. Rae Files - - - - -	Waxahachie - - - - - 100-1
Storey, Cecil - - - - -	Longview - - - - - 6f

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
Stubbs, John Peter - - - - -	Wortham - - - - - 57
Suiter, Miss Elizabeth - - - - -	Winnsboro - - - - - 34
Svadlenak, Frank - - - - -	Thrall - - - - - 83
Swanson, F. G. - - - - -	Tyler - - - - - 33f
Thomas, M. K. - - - - -	Canton - - - - - 53
Vale, A. J. - - - - -	Rio Grande City - - - - - 74
Voigt, Frank B. - - - - -	New Braunfels - - - - - 80
Walker, D. B. - - - - -	Hillsboro - - - - - 60f
Ward, J. F. - - - - -	Rosenberg - - - - - 20
Westbrook, Mainor N. - - - - -	Magnolia Springs - - - - - 13
White, Frank E. - - - - -	Groveton - - - - - 28
Williams, Sterling - - - - -	Snyder - - - - - 118
Williamson, W. A. - - - - -	San Antonio - - - - - 78-1
Winfree, J. E. - - - - -	Houston - - - - - 19-5
Wiseman, Pat - - - - -	Jacksonville - - - - - 31
Wood, Hugh N. - - - - -	Bronson - - - - - 11
Woods, J. M. - - - - -	San Antonio - - - - - 78-3
Yezak, Herman - - - - -	Hearne - - - - - 63

CONSTITUTION OF THE STATE OF TEXAS

AMENDMENTS

ARTICLE III

LEGISLATIVE DEPARTMENT

Sec. 51a.

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

(1) Needy aged persons who are actual bona fide citizens of Texas and who are over the age of sixty-five (65) years; provided that no such assistance shall be paid to any inmate of any State supported institution, while such inmate, or to any person who shall not have actually resided in Texas for at least five (5) years during the nine (9) years immediately preceding the application for such assistance and continuously for one (1) year immediately preceding such application; provided that the maximum payment per month from State funds shall not be more than Twenty Dollars (\$20) per month.

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

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

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

CONSTITUTION

five Million Dollars (\$35,000,000) per year. Sec. 51a, Art. 3, adopted election Aug. 25, 1945.

Proposed by House Joint Resolution No. 13, Acts 1945, 49th Leg., p. 1047, which provided that "Sections 51a, 51b, 51c and 51d of Article III of the Constitution of the State of Texas be amended and the same are hereby amended so that the same shall hereafter consist of one section to be numbered 51a, which shall read as follows:"

Secs. 51b-51d.

These sections, adopted at elections Aug. 24, 1935 and Aug. 23, 1937, were amended and consolidated into section 51a of this article by amendment adopted at election Aug. 25, 1945. See section 51a and note thereunder.

ARTICLE V

JUDICIAL DEPARTMENT

Sec. 2.

The Supreme Court shall consist of a Chief Justice and eight Associate Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters. No person shall be eligible to the office of Chief Justice or Associate Justice of the Supreme Court unless he be, at the time of his election, a citizen of the United States and of this state, and unless he shall have attained the age of thirty-five years, and shall have been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years, or until their successors are elected and qualified; and shall each receive such compensation as shall be provided by law. In case of a vacancy in the office of any Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The Justices of the Supreme Court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution, and until their successors are elected and qualified. The Judges of the Commission of Appeals who may be in office at the time this amendment takes effect shall become Associate Justices of the Supreme Court and each shall continue in office as such Associate Justice of the Supreme Court until January 1st next preceding the expiration of the term to which he has been appointed and until his successor shall be elected and qualified. Sec. 2, Art. 5, adopted election Aug. 25, 1945.

Proposed by Senate Joint Resolution No. 8, Acts 1945, 49th Leg., p. 1043.

ARTICLE VI

SUFFRAGE

Sec. 2a.

Nothing in this Constitution shall be construed to require any person, who at the time of the holding of an election hereinafter referred to is, or who, within eighteen months immediately prior to the time of holding

CONSTITUTION

any such election was, a member of the armed forces of the United States or of the Armed Force Reserve of the United States, or of any branch or component part of such armed forces or Armed Force Reserve, or the United States Maritime Service or the United States Merchant Marine, and who is otherwise a qualified voter under the laws and Constitution of this state, to pay a poll tax or to hold a receipt for any poll tax assessed against him, as a condition precedent to his right to vote in any election held under the authority of the laws of this state, during the time the United States is engaged in fighting a war, or within one year after the close of the calendar year in which said war is terminated.

Provided, however, that the foregoing provisions of this section do not confer the right to vote upon any person who is a member of the regular establishment of the United States Army, Navy, or Marine Corps; and provided further, that all persons in the armed forces of the United States, or the component branches thereof, not members of the regular establishment of the United States Army, Navy, or Marine Corps, are hereby declared not to be disqualified from voting by reason of any provision of sub-section "Fifth" of Section 1, of this Article. Sec. 2a, Art. 6, adopted election Aug. 25, 1945.

Proposed by Senate Joint Resolution No. 7, Acts 1945, 49th Leg., p. 1041.

PROPOSED AMENDMENTS

ARTICLE III

LEGISLATIVE DEPARTMENT

Precede Sec. 24.

The Legislature is authorized to appropriate so much money as may be necessary, not to exceed Seventy-five Thousand (\$75,000.00) Dollars, to pay claims incurred by John Tarleton Agricultural College for the construction of a building on the campus of such college pursuant to deficiency authorization by the Governor of Texas on August 31, 1937.

Proposed by Senate Joint Resolution No. 5, Acts 1945, 49th Leg., p. 1041. For submission to the people in Nov. 1946.

Sec. 49-b.

There is hereby created a Board to be known as the Veteran's Land Board, which shall be composed of the Governor, the Attorney General, and the Commissioner of the General Land Office. The Legislature shall provide by law for the issuance by said Board of not to exceed Twenty-five Million Dollars (\$25,000,000) in bonds or obligations of the State of Texas for the purpose of creating a fund to be known as the Veteran's Land Fund. Such bonds shall be executed by said Board as an obligation of the State of Texas in such form, denominations, and upon such terms as shall be prescribed by law, provided, however, that said bonds shall bear a rate of interest not to exceed three per cent (3%) per annum.

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 Free School Funds; such bonds to be issued only as needed, in the opinion of the Veteran's Land Board under legislative authorization.

CONSTITUTION

The Veteran's 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.

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

The lands of the Veteran's Land Fund shall be sold by the State to Texas Veterans of the present war or wars, commonly known as World War II, in such quantities, and on such terms, and at such prices and such rates of interest, and under such rules and regulations as may be prescribed by law; provided, however, that any such lands remaining unsold at the expiration of eight (8) years after the effective date of this Amendment may be sold to anyone as shall be prescribed by law.

All moneys received and which have been received and which have not been used for repurchase of land as provided herein by the Veteran's Land Board from the sale of lands and for interest on deferred payments shall be credited to the Veteran's Land Fund for use in purchasing additional lands to be sold to Texas Veterans of World War II, in like manner as shall be provided for the sale of lands purchased with the proceeds from the sales of the bonds, provided for herein, for a period of eight (8) years from the effective date of this Amendment; provided, however, that so much of such moneys as may be necessary to pay interest on the bonds herein provided for shall be set aside for that purpose. After eight (8) years from the effective date of this Amendment, all moneys received by the Veteran's 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 said bonds and to pay interest thereon, and any of such moneys not so needed shall be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law.

Proposed by House Joint Resolution No. 62, Acts 1945, 49th Leg., p. 1051. For submission to the people in Nov. 1946.

ARTICLE VIII

TAXATION AND REVENUE

Sec. 7-a.

Subject to legislative appropriation, allocation and direction, all net revenues remaining after payment of all refunds allowed by law and expenses of collection derived from motor vehicle registration fees, and all taxes, except gross production and ad valorem taxes, on motor fuels and lubricants used to propel motor vehicles over public roadways, shall be used for the sole purpose of acquiring rights-of-way, constructing, maintaining, and policing such public roadways, and for the administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads; and for the payment of the principal and interest on county and road district bonds or warrants voted or issued prior to January 2, 1939, and declared eligible prior to January 2, 1945, for payment out of the County and Road District Highway Fund under existing law; provided, however, that one-fourth ($\frac{1}{4}$)

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of such net revenue from the motor fuel tax shall be allocated to the Available School Fund; and, provided, however, that the net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945. Nothing contained herein shall be construed as authorizing the pledging of the State's credit for any purpose.

Proposed by House Joint Resolution No. 49, Acts 1945, 49th Leg., p. 1049. For submission to the people in Nov. 1946.

ARTICLE XVI

GENERAL PROVISIONS

Sec. 62.

(a) The Legislature shall have the right to levy taxes to provide a Retirement, Disability and Death Compensation Fund for the appointive officers and employees of the State; provided that the amount contributed by the State to such Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time five per centum (5%) of the compensation paid to each such person by the State, and shall in no one year exceed the sum of One Hundred and Eighty Dollars (\$180) for any such person.

All funds provided from the compensation of such person, or by the State of Texas, for such Retirement, Disability and Death Compensation Fund, as are received by the Treasury of the State of Texas, 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 meet the immediate payment of the amount likely to become due each year out of said Fund, such amount of funds to be kept on hand to be determined by the agency which may be provided by law to administer said Fund; and provided that the recipients of benefits from said Fund shall not be eligible for any other pension retirement funds or direct aid from the State of Texas, unless the Fund, the creation of which is provided for herein, contributed by the State, is released to the State of Texas as a condition to receiving such other pension aid.

(b) Each county shall have the right to provide for and administer a Retirement, Disability and Death Compensation Fund for the appointive officers and employees of the county; provided same is authorized by a majority vote of the qualified voters of such county and after such election has been advertised by being published in at least one newspaper of general circulation in said county once each week for four consecutive weeks; provided that the amount contributed by the county to such Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time five per centum (5%) of the compensation paid to each such person by the county, and shall in no one year exceed the sum of One Hundred and Eighty Dollars (\$180) for any such person.

All funds provided from the compensation of each such person, or by the county, for such Retirement, Disability and Death Compensation Fund, as are received by the county, shall be invested in bonds of the

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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 meet the immediate payment of the amount likely to become due each year out of said Fund, such amount of funds to be kept on hand to be determined by the agency which may be provided by law to administer said Fund; and provided that the recipients of benefits from said Fund shall not be eligible for any other pension retirement funds or direct aid from the State of Texas, unless the Fund, the creation of which is provided for herein, contributed by the county, is released to the State of Texas as a condition to receiving such other pension aid.

Proposed by House Joint Resolution No. 10, Acts 1945, 49th Leg., p. 1045. For submission to the people in Nov. 1946.

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VERNON'S REVISED CIVIL STATUTES OF THE STATE OF TEXAS

TITLE 1—GENERAL PROVISIONS

Art. 26. 10-13-14 Oaths, affidavits and affirmations; persons authorized to administer and issue certificate; members of armed forces; presumption; absence of seal

1. All oaths, affidavits or affirmations made within this State may be administered and a certificate of the fact given by:

- a. A judge or clerk of any District Court.
- b. A judge or clerk of any County Court.
- c. A notary public.
- d. A Justice of the Peace.

e. Any member of any board or commission created by the laws of this State, in matters pertaining to the duties thereof.

2. Such oath, affidavit or affirmation made without this State and within the physical limits of the United States and its territories may be administered and a certificate of fact given by:

- a. A clerk of any court of record having a seal.
- b. A commissioner of deeds duly appointed under the laws of this State.
- c. A notary public.

3. Such oath, affidavit or affirmation made without the physical limits of the United States and its territories may be administered and a certificate of fact given by:

a. A minister, a commissioner or charge d'affaires of the United States, resident and accredited to the country where the oath, affidavit or affirmation is made.

b. A consul-general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul or consular agent of the United States, resident in the country where the oath, affidavit or affirmation is made.

- c. A notary public.

4. In addition to the methods above provided, any such oath, affidavit or affirmation made by a member of the Armed Forces of the United States of America or any Auxiliaries thereto, may be administered by any commissioned officer in the Armed Forces of the United States of America or in the Auxiliaries thereto, and a certificate of such fact may be made by such officer.

In the absence of pleading or proof to the contrary it shall be presumed, when any certificate of an oath, affidavit or affirmation is offered in evidence, that the person signing such as a commissioned officer was

such on the date signed, and that the person making such oath, affidavit or affirmation, to which such officer certifies, was one of those with respect to whom such action is hereby authorized.

No oath, affidavit or affirmation administered in accordance with the provisions of this sub-section 4 of this Act shall be held invalid by reason of the failure of the officer certifying to such oath, affidavit or affirmation to attach an official seal to the certificate thereto. As amended Acts 1945, 49th Leg., p. 544, ch. 331, § 1.

Emergency. Effective June 14, 1945.

TITLE 2—ACCOUNTANTS—PUBLIC AND CERTIFIED

Art.

41a. Public Accountancy Act of 1945
[New].Arts. 31-41. Repealed. Acts 1945, 49th Leg., p. 517, ch. 315, § 26, Eff.
90 days after June 5, 1945, date of adjournment

Art. 41a. Public Accountancy Act of 1945

Section 1. Name. This Act may be cited as the "Public Accountancy Act of 1945".**Sec. 2. Definitions.** (a) "Practice of Public Accountancy". A person engages in the "practice of public accountancy" within the meaning of this Act who, holding himself out to the public as a public accountant, in consideration of compensation received or to be received by him, offers to perform or does perform, for other persons, services which involve the auditing or examination of financial transactions, books, accounts, or records, or the preparation of, or the reporting over his signature on, financial, accounting, and related statements.

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

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

Sec. 3. Acts Not Restricted. Nothing in this Act shall be construed as applying to any County Auditor, or other officer of the state, county, municipality, quasi-municipality, or other political subdivision thereof, or of their assistants, deputies or employees.**Sec. 4. State Board of Public Accountancy.** The Texas State Board of Public Accountancy shall consist of five members, each of whom shall be a citizen of the United States and a resident of this state. Members of the Board and their successors shall be appointed by the Governor, with the advice and consent of the Senate, and shall be accountants in public practice who hold Certified Public Accountant certificates issued under the laws of this state. Members of the Board shall hold office for terms of two years, or until their successors are appointed and have qualified, except the members of the Board first to be appointed, who shall hold office, two for one year and three for two years, as designated by the Governor. Vacancies occurring during a term shall be filled by appointment for the unexpired term. The Governor shall remove from the Board any member whose permit to practice has become void, revoked or suspended.**Sec. 5. Powers and Duties of Board.** The Board shall administer the provisions of this Act. The Board shall formally elect a chairman and a secretary-treasurer from its members and may adopt such rules as it deems necessary for the orderly conduct of its affairs. The Board may promulgate, and may amend from time to time, rules of professional conduct appropriate to establish and maintain a high standard of integrity in the profession of public accountancy, after notice to all holders of valid permits to practice public accountancy in this state. Such notice shall set forth the proposed rules of professional conduct or amendments and the time when same shall be voted on by public accountants holding valid permits under this Act. No such rule or amendment shall be operative until approved by a majority of those voting at such election. The voting shall be by mail and under such reasonable rules and

regulations as the Board may prescribe. The Board shall declare the results of such election and proclaim the effective date of such rules of professional conduct, or amendments, and adopt reasonable means of notifying all public accountants of the results of such election. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall have a seal which shall be judicially noticed. The Board shall keep records of all proceedings and actions by and before the Board. The Board may employ such clerks as are necessary to assist it in the performance of its duties and in the keeping of its records.

Sec. 6. Compensation of Board. Members of the Board shall not receive any compensation for their services, but shall be reimbursed for their necessary expenses incurred in the discharge of their official duties.

Sec. 7. Expenses of Board. All expenses incurred under this Act shall be paid from the fees collected by the Board under this Act. No expenses incurred under this Act shall ever be a charge against the funds of the State of Texas. The Board shall, as of December 31, 1946, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements under this Act, for each calendar year.

Sec. 8. Prohibition Against Practicing Without Permit. After January 1, 1946, no person shall engage in the practice of public accountancy in this state unless such person is the holder of a valid permit to practice public accountancy, issued by the Board.

Sec. 9. Annual Permits to Practice. Permits to engage in the practice of public accountancy in this state shall be issued by the Board to the following upon the payment of fees hereinafter specified:

(a) Holders of the Certificate of Certified Public Accountant issued under this Act.

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

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

There shall be paid to the secretary treasurer of the Board, a permit fee of Five (\$5.00) Dollars. All permits shall expire on the 31st day of December of each year, but shall, annually, be renewed for a period of one year, upon the payment of a fee of not more than Five (\$5.00) Dollars, the Board being hereby given the authority and duty to determine the amount of such renewal fee for each coming year on or before December 1st of each year, and to mail notices thereon each year by that date.

Failure of any permit holder to pay the annual registration renewal fee on or before January 31st of each year shall automatically cancel his permit. Any permit holder whose permit shall have been cancelled because of failure to pay the annual registration renewal fee may secure reinstatement of his permit at any time within that calendar year upon payment of the delinquent registration fee together with a penalty of Two Dollars and Fifty Cents (\$2.50). After expiration of the calendar year for which the registration fee was not paid, no permit shall be reinstated except upon application and examination satisfactory to the Board. The Board shall have no authority to waive the collection of any fee or penalty.

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

(a) All individuals and public accountants qualified or who may qualify under Section 11 of this Act.

(b) Partnerships qualified under Sections 17 and 19 of this Act.

(c) Corporations qualified under Section 21 of this Act.

All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration. The Board shall have power to examine such applications and may refuse registration to any applicant who is unable to meet the standards imposed by this Act.

Sec. 11. Individuals or Public Accountants Entitled to Register. All persons listed in subdivisions (a), (b), and (c) of this Section who are citizens of the United States, or have declared their intention of becoming citizens, who reside within the state or have a place for the regular transaction of business therein, and who are twenty-one years of age or over, and of good moral character, may register on or before the 1st day of November, 1945, with the Board as public accountants as provided in Section 10 of this Act;

(a) Persons engaged at the date of the enactment of this Act, or persons who have engaged for at least three years during the ten years immediately preceding the date of enactment of this Act, in the practice of public accountancy within the state either as individuals on their own account, members of copartnerships engaged in the practice of public accountancy, or as officers of corporations engaged in the practice of public accountancy;

(b) Any individual who at the date of the enactment of this Act, may be an employee of any person engaged in the practice of public accountancy or may be employed in any governmental agency, provided all such persons meet any one of the three following standards:

(1) Who is a graduate of a junior college, senior college or university and has completed thirty or more semester hours or the equivalent thereof in the study of accounting, business law, economics and finance, of which at least twenty semester hours or the equivalent thereof shall be in the study of accounting, and has been in the employ of a person engaged in the practice of public accountancy, or shall have been employed as an accountant or auditor in work of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters for two years preceding the date of application; or

(2) Who is a graduate of a junior college, senior college or university but has not completed the hours of study in subjects specified in subdivision (1) of this section, and has been in the employ of a person engaged in the practice of public accountancy, or shall have been employed as an accountant or auditor in work of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters for three years preceding the date of application; or

(3) Who is a graduate of a high school or has an equivalent education and has been in the employ of a person engaged in the practice of public accountancy, or shall have been employed as an accountant or auditor in work of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters, for at least four years preceding the date of application;

(c) Individuals serving in the armed forces of the United States or any of the United Nations, who at the date of entering such service may be qualified as specified in either sub-division (a) or (b) of this section. In the case of any person serving in the armed forces of the United States or any of the United Nations on the effective date of this Act, the Board shall extend the time for compliance prescribed by any provisions of this Act, for a period of twelve months from the time such person is honorably discharged from such service.

Sec. 12. Certification of Certified Public Accountants. The certificate of "certified public accountant" shall be granted by the Board to any person who is:

(a) a citizen of the United States or who has duly declared his or her intention of becoming such citizen, and who is a resident of the State of Texas or has a place of business or is employed therein at the time of his application; and (b) who is over the age of twenty-one years; and (c) who is of good moral character; and (d) who meets the requirements of education and experience of one of the three following subdivisions:

(1) Who is a graduate of a junior college, senior college or university recognized by the Board, and has completed thirty or more semester hours or the equivalent thereof in the study of accounting, business law, economics and finance, of which at least twenty semester hours or the equivalent thereof shall be in the study of accounting, and has been engaged in practice as a public accountant, or been in the employ of a person engaged in the practice of public accountancy, or shall have been employed as an accountant or auditor in work of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters for one year preceding the date of application; or

(2) Who is a graduate of a junior college, senior college or university recognized by the Board but has not completed the hours of study in subjects specified in subdivision (1) of this section, and has been engaged in practice as a public accountant, or been in the employ of a person engaged in the practice of public accountancy, or shall have been employed as an accountant or auditor in work of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters for three years preceding the date of application; or

(3) Who is a graduate of a high school with a four year course or has an equivalent education and has been in practice as a public accountant, or been in the employ of a person engaged in the practice of public accountancy, or shall have been employed as an accountant or auditor in work of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters, for at least four years preceding the date of application; and

(e) Who shall have successfully passed written examinations in the theory of accounts, in accounting practice, in auditing, in commercial law as affecting accounting and in such other related subjects as the Board may deem advisable. Each applicant shall be required to make a grade of at least seventy-five (75%) per cent on each subject. Applicants for the examinations shall meet the requirements stated in subdivision (a), (b), (c) and (d) of this section before such applicant shall be permitted to take the examination; except, a candidate for the certificate of "certified public accountant" who meets the educational requirement in subdivision (1) of clause (d) of the first paragraph of this section shall be immediately entitled to examination in subjects other than accounting practice, but shall be required to meet the one-year experience requirement of said subdivision (1) before admission to examination in accounting practice. Provided, however, that anyone who meets the requirements of education and experience of one of the three subdivisions (1), (2), (3), and who is duly enrolled as an attorney in the Supreme Court of Texas and has complied with the provisions of the State Bar Act and is a member of the State Bar in good standing, shall be immediately entitled to examination in subjects other than commercial law, as affecting accounting, and will be given credit for commercial law without taking the written examination on commercial law. The holder of a certificate heretofore issued under the provisions of Chapter 122 of the Acts of 34th Legislature shall not be required to secure a new certificate as a certi-

fied public accountant under this Act, but shall otherwise be subject to all the provisions of this Act; and such certificates heretofore issued shall, for all purposes, be considered certificates issued under this Act and subject to the provisions hereof.

Sec. 13. Reciprocity. (a) The Board may in its discretion waive the examination of, and may issue a certificate as "certified public accountant" to, any person possessing the other qualifications mentioned in Section 12 of this Act who is the holder of a certificate as certified public accountant issued under the laws of any state or territory (or the equivalent thereof issued in any foreign country), provided the requirements for such certificates in the state or territory (or foreign country) which has granted it to the applicant were in the opinion of the Board equivalent to those required in this state at the time the applicant's original certificate was issued, and provided that such state or territory (or foreign country) may extend the same privilege to certified public accountants holding certificates from this state.

(b) Any person holding a permit under the laws of any state or territory to practice public accountancy, if such state or territory in the opinion of the Board has standards equal to those required by this state, shall be granted a permit by the Board of this state if such state or territory admits public accountants of this state to practice in such state or territory.

Sec. 14. Certified Public Accountants of Other States and Persons Holding Similar Titles in Foreign Countries—Registration Thereof. A certified public accountant of another state or territory, or the holder of a certificate, license, or degree authorizing him to practice public accountancy in a foreign country, may register with the Board as a certified public accountant of such other state or territory, or as holding such certificate, license or degree of a foreign country, if the Board determines that the standards under which the applicant became a certified public accountant, or received such certificate, license, or degree, were as high as the standards of this state at the same time for giving the Certificate of Certified Public Accountant. A person so registered may describe himself as a certified public accountant of the state or territory which issued his certificate, or may use the title held by him in a foreign country, provided that the country of its origin is indicated.

Sec. 15. Examinations, Re-examinations, and Fees Therefore. All examinations provided for herein shall be conducted by the Board. The examinations shall take place as often as may be necessary in the opinion of the Board but not less frequently than once each year. The time and place of holding examinations shall be duly advertised for not less than three days in three daily newspapers published in the three most populous cities in Texas beginning not less than thirty days prior to the date of each examination. A candidate who fails shall have the right to any number of re-examinations. A candidate who passes a satisfactory examination in at least two subjects, or has passed at least two subjects under the prior Act (Chapter 122, Acts 34th Legislature) shall have the right to be re-examined in the remaining subjects only, at subsequent examinations held by the Board, and if he passes in the remaining subjects, he shall then be considered to have passed the examinations. The Board shall charge for the examinations (together with certificates to successful applicants provided for in this Act) a fee of Twenty-five Dollars (\$25.00) which shall be payable by the applicant at the time of making initial application. Should the applicant fail to pass the required examination, re-examination or subsequent examinations will be given the same applicant for an additional fee of Ten Dollars (\$10.00) for each examination. Any person who has taken the examination under the prior

Act shall be entitled to re-examination under this Act. All fees provided for in this Act shall be paid to the secretary-treasurer of the Board.

Sec. 16. Use of Name "Certified Public Accountant"—Abbreviations. Any person who has received from the Board a Certificate of Certified Public Accountant and holds a valid permit to practice, shall be styled and known as a "Certified Public Accountant" and may also use the abbreviation "C.P.A.". No other person except partnerships registered under this Act, shall assume or use that title or abbreviation or any other title, sign, card or device tending to imply that the person using the same is a certified public accountant.

Sec. 17. Use of Name of "Certified Public Accountant"—Partnerships. A partnership engaged in this state in the practice of public accountancy may register with the Board as a partnership of certified public accountants provided it meets the following requirements:

(a) At least one general partner thereof must be a certified public accountant of this state in good standing.

(b) Each partner thereof personally engaged within this state in the practice of public accountancy as a member thereof must be a certified public accountant in this state in good standing.

(c) Each partner thereof must be a certified public accountant of some state in good standing.

(d) Each resident manager in charge of an office of the firm in this state must be a certified public accountant of this state in good standing.

Application for such registration must be made upon the affidavit of a general partner of such partnership who is a certified public accountant of this state in good standing. Such affidavit must set forth the partnership name and the post office address thereof within the state, and the address of the principal office thereof, wherever located, together with the name, residence and post office address of each general partner. The Board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a permit issued under Section 9 of this Act may use the words "certified public accountants" or the abbreviation "C.P.A.'s" in connection with its partnership name. Notification shall be given the Board, within one month, after the admission to or withdrawal of a partner from any partnership so registered.

Sec. 18. Use of Name "Public Accountant." Any individual qualified under this Act to register with the Board for the practice of public accountancy and who has so registered, and who holds a valid permit for the practice of public accountancy, may be styled and known as a "public accountant". No other person except partnerships registered under this Act shall assume or use that designation or any other designation tending to imply that the person using the same is a public accountant. This section shall not be applied to a certified public accountant.

Sec. 19. Use of Name "Public Accountant"—Partnerships. A partnership engaged in this state in the practice of public accountancy may register with the Board as a partnership of public accountants provided it meets the following requirements:

(a) At least one general partner thereof must be a certified public accountant or a public accountant of this state in good standing.

(b) Each partner thereof personally engaged within this state in the practice of public accountancy as a member thereof must be a certified public accountant or a public accountant of this state in good standing.

(c) Each resident manager in charge of an office of a firm in this state must be a certified public accountant or a public accountant of this state in good standing.

Application for such registration must be made upon the affidavit of a general partner of such partnership who holds a permit to practice in this state as a certified public accountant or as a public accountant. Such affidavit must set forth the partnership name and the post office address thereof within the state, together with the name, residence and address of each general partner of the partnership. The Board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a partnership permit issued under Section 9 of this Act may use the words "public accountants" in connection with its partnership name. Notification shall be given the Board, within one month, after the admission to or withdrawal of a partner from any partnership so registered.

Sec. 20. Prohibited Abbreviations. The use in the practice of public accountancy of the designations "chartered accountant", "certified accountant", "enrolled accountant", "registered accountant", "bonded accountant", "licensed accountant", or other such designations, or of the abbreviations "C. A.", "E. A.", "R. A.", "B. A.", "L. A.", or other such abbreviations by a public accountant or by any other person is prohibited. Nothing in this section shall prohibit certified public accountants or public accountants holding permits under this Act from using the designation "accountants and auditors" or "auditors and accountants".

Sec. 21. Practice of Public Accountancy by Corporations. A corporation authorized to engage in the practice of public accountancy in this state and actually engaged in such practice at the time of the enactment of this Act, may register with the Board as a corporation engaged in the practice of public accountancy. Application for such registration must be made upon the affidavit of an officer of such corporation. The Board shall in each case determine whether the applicant is eligible for registration. A corporation which is so registered and which holds a permit issued under this Act may practice public accountancy under a corporate name indicating that it is engaged in such practice, provided it had such corporate name before the enactment of this Act.

Sec. 22. Revocation or Suspension of Certificate or Permit. The Board shall have the power to institute proceedings against any person holding a certificate or permit under this Act to revoke or suspend the certificate or permit of such person who shall be charged and found guilty of:

(a) The practice of any fraud or deceit in obtaining a certificate or a permit;

(b) Any gross negligence or misconduct in the practice of public accountancy;

(c) Violation of any of the provisions of this Act or any of the rules or regulations promulgated by the Board.

Sec. 23. Procedure and Review. Any proceedings instituted for the purpose of cancelling or suspending any certificate or permit granted by the Board shall be upon motion of the Board or upon the affidavit of any reliable citizen of this State. Upon the filing of such affidavit with the secretary of the Board, which affidavit must set forth specific facts upon which the charge is made, the Board, if it deems the information contained in the affidavit sufficient to support further action on its part, shall request the Attorney General of Texas to file suit, in the name of the Board as plaintiff, against the person complained of as defendant, for the purpose of cancelling or suspending such certificate or permit. Such suits shall be filed in the District Court of the county where the defendant resided at the time the acts complained of were committed. The petition shall set out the specific acts complained of and the cause shall be tried as other civil causes. If the court finds that the defendant

has committed the act or acts charged in plaintiff's petition, and if such act or acts are in violation of the provisions of this Act, the court shall enter judgment cancelling or suspending such certificate or permit. Either party may appeal the case in the same manner as provided for in ordinary civil cases. Such suits must be instituted within two years after such affidavit is filed with the Board.

Sec. 24. Penalties. After the effective date of this Act, any person who shall hold himself out to the public as a public accountant or shall engage in the practice of public accountancy as same is defined in Section 2 of this Act, without having obtained a certificate or permit, or any person who shall violate any of the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00); or by imprisonment in jail for not more than six months, or by both such fine and imprisonment.

Sec. 25. If any section or any part of this Act shall be held to be invalid, such invalidity shall not affect the remaining portions thereof, it being the express intention of the Legislature to enact such Act without respect to such section or part so held to be invalid. Acts 1945, 49th Leg., p. 517, ch. 315.

Effective 90 days after June 5, 1945,
date of adjournment.

Section 26 of the Act of 1945, read as
follows: "Chapter 122, Acts of the 34th

Legislature [arts. 31-41] and Articles 1132
and 1133, Penal Code, and all laws or parts
of laws in conflict herewith, are hereby
expressly repealed.

TITLE 3A—AERONAUTICS [NEW]

Art. 46c—1. Definitions. 46c—2. Declaration. 46c—3. Aeronautics Commission—Creation —Membership. 46c—4. Organization, Meetings, Reports.	Art. 46c—5. Office and Expense—Employees. 46c—6. General Powers and Duties of Com- mission. 46c—7. Federal Aid. 46c—8. Director of Aeronautics.
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Art. 46c—1. Definitions

1. For the purpose of the laws of this State relating to aeronautics, the following words, terms, and phrases shall have the meanings herein given, unless otherwise specifically defined, or unless another intention clearly appears, or the context otherwise requires.

2. "Aeronautics" means transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities, and air instruction.

3. "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

4. "Public aircraft" means an aircraft exclusively in the service of any government or of any political subdivision thereof, including the government of any State, territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

5. "Civil aircraft" means any aircraft other than a public aircraft.

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

7. "Commission" means the Texas Aeronautics Commission; "State" or "this State" means the State of Texas; and "Director" means the Director of Aeronautics of this State.

8. "Air navigation" means the operation or navigation of aircraft in the air space over this State, or upon any airport within this State.

9. "Operation of aircraft" or "operate aircraft" means the use of aircraft for the purpose of air navigation, and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, leases, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the Statutes of this State.

10. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

11. "Navigable air space" means air space above the minimum altitudes of flight prescribed by the laws of the United States.

12. "Municipality" means any county, incorporated city, village or town of this State and any other political subdivision or district in this State which is or may be authorized by law to acquire, establish, con-

struct, maintain, improve, and operate airports and other air navigation facilities.

13. The singular shall include the plural, and the plural the singular. Acts 1945, 49th Leg., p. 580, ch. 344, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Sections 9 to 11 of the Act of 1945 read as follows:

"Sec. 9. There is appropriated to the Texas Aeronautics Commission out of monies in the State Treasury not otherwise appropriated for the fiscal year ending August 31, 1946, the sum of Twenty Thousand Dollars (\$20,000), and for the fiscal year ending August 31, 1947, the sum of Twenty Thousand Dollars (\$20,000) according to the provisions of this Act and for the biennial departmental appropriation bill. The following employees at the salaries specified are authorized to be paid out of the appropriations made herein:

	1945-46	1946-47
Director	\$ 4,000.00	\$ 4,000.00
Statistician and auditor	2,400.00	2,400.00
Secretary	1,725.00	1,725.00
Per diem and traveling expenses of commissioners	1,800.00	1,800.00
Engineer	3,600.00	3,600.00
Office equipment, rent, stamps, stationery, telephone and telegraph and contingent fund	3,600.00	3,600.00
Traveling expenses of director and employees	1,000.00	1,000.00
Seasonal help	1,500.00	1,500.00
	\$19,625.00	\$19,625.00

"Sec. 10. Any and all laws and parts of laws in conflict with any terms or provisions of this Act shall be and the same are hereby repealed.

"Sec. 11. If any section, subdivision, paragraph, sentence, clause, or word of this Act be held to be unconstitutional the remaining portions of same shall, nevertheless, be valid, and it is declared that such remaining portions would have been included in this Act though the unconstitutional portion had been omitted."

Title of Act:

An Act relating to aeronautics; providing for the development thereof within this State; defining certain terms; creating a State Aeronautics Commission and prescribing the powers and duties of such Commission; authorizing cooperation and the acceptance of Federal monies and directing the expenditure thereof; appointment, qualifications, and compensation of State Aeronautics Director and prescribing his powers and duties; making an appropriation; repealing all laws or parts of laws in conflict herewith; providing a saving clause; and declaring an emergency. Acts 1945, 49th Leg., p. 580, ch. 344.

Art. 46c—2. Declaration

It is hereby declared that the purpose of this Act¹ is to further the public interest and aeronautical progress by providing for the protection and promotion and development of aeronautics; by cooperating in effecting a uniformity of the laws relating to the development of aeronautics in the several states; by revising existing statutes relative to the development and regulation of aeronautics so as to grant to a State agency such powers and impose upon it such duties that the State may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, may assist in the promotion of a state-wide system of airports, may cooperate with and assist the political subdivisions of this State in order that those engaged in aeronautics of every character may so engage with the least possible restrictions consistent with the safety and the rights of other person or persons; and by providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this State by assisting in accomplishing the purposes of federal legislation and eliminating costly and unnecessary duplication of functions properly in the province of the federal agencies. Acts 1945, 49th Leg., p. 580, ch. 344, § 2.

¹ Articles 46c—1 to 46c—8.

Art. 46c—3. Aeronautics Commission—Creation—Membership

There is hereby created and established an aeronautics Commission to be known as the "Texas Aeronautics Commission," to consist of three (3) members, who shall be appointed by the Governor to be confirmed by the Senate. 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 passage of this Act.¹ The successors of the members initially appointed shall be appointed for terms of six (6) years in the same manner as the members originally appointed under this Act, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. All members of the Commission shall be citizens and bona fide residents of the State subject to the approval of the State Board of Control. Each member shall be reimbursed for actual and necessary expenses incurred by him in the performance of his duties. Each member may be paid the sum of Ten Dollars (\$10) per diem, or part thereof, spent in attending to his duties as Commissioner, but no member shall receive more than the sum of Six Hundred Dollars (\$600) in any one year as per diem. In making such appointments the Governor shall take into consideration the experience in and knowledge of the aviation industry and the science of aviation possessed by any appointee. Acts 1945, 49th Leg., p. 580, ch. 344, § 3.

¹ Articles 46c—1 to 46c—8.

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

The Commission shall, within thirty (30) days after its appointment, organize, adopt a seal, and make such rules and regulations for its administration, not inconsistent herewith, as it may deem expedient and may from time to time amend such rules and regulations. At such organization meeting it shall elect from among its members a chairman, a vice chairman, and a secretary, to serve for one year, and annually thereafter shall elect such officers; all to serve until their successors are appointed and qualified. It shall at its initial meeting fix the date and place for its regular meetings. Two (2) members shall constitute a quorum, and no action shall be taken by less than a majority of the Commission. Special meetings may be called as provided by its rules and regulations. All regular and special Commission meetings shall be open to the public. It shall report in writing to the Governor on or about December 1st of each year; said report shall contain a summary of its proceedings during the preceding fiscal year, a detailed and itemized statement of all revenues and of all expenditures made by or in behalf of the Commission, such other information as it may deem necessary or useful and any additional information which may be requested by the Governor. The fiscal year of the Commission shall conform to the fiscal year of the State. Acts 1945, 49th Leg., p. 580, ch. 344, § 4.

Art. 46c—5. Office and Expense—Employees

Suitable offices and office equipment shall be provided by the State for the Commission in the City of Austin, and it may maintain temporary offices in any other place in the State that it may designate and may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the enforcement of this Act¹ and the general promotion of aeronautics within the State. Regular meetings shall be held at its offices at Austin, but, when-

ever the convenience of the public or of the parties may be promoted, or delay or expense may be prevented, it may hold hearings or proceedings at any other place designated by it. The Commission may employ such clerical and other employees and assistants as it may deem necessary for the proper transaction of its business and shall fix their salaries. Provided that the Commission shall not make any obligations or expend any State monies unless and until an appropriation by the Legislature is made therefor. Acts 1945, 49th Leg., p. 580, ch. 344, § 5.

¹ Articles 46c—1 to 46c—8.

Art. 46c—6. General Powers and Duties of Commission

Subdivision 1. The Commission is empowered and directed to encourage, foster, and assist in the development of aeronautics in this State, and to encourage the establishment of airports and other air navigation facilities, but will not have authority to promulgate rules and regulations which may impose a greater restriction upon aviation than now exists, and shall have no authority to impose economic control by way of regulations.

Subdivision 2. Legislation. It may recommend necessary legislation to advance the interests of the State in aeronautics and represent the State in aeronautical matters before federal agencies and other State agencies.

Subdivision 3. Financial Assistance. The Commission may render financial assistance in the acquisition, development, operation or maintenance of airports out of appropriations made by the Legislature for that purpose.

Subdivision 4. Authority to Contract. It may enter into any contracts necessary to the execution of the powers granted it by this Act¹ but shall have no authority to enter into any contract or agreement binding the State of Texas for the payment of any monies which have not been specifically authorized by appropriation of the Legislature, nor shall it enter into any contract or agreement binding the State of Texas in excess of the powers herein granted.

Subdivision 5. The Commission shall have no authority to issue certificates of convenience and necessity within the State of Texas.

Subdivision 6. The Commission shall conduct hearings and shall make investigation as it may deem necessary for the purposes of determining the location, type of construction, and the cost to the State of Texas of maintenance of emergency and all other classes of airports owned, operated, or directly financed in whole or in part by the State within the State of Texas. It shall render assistance within its power, not inconsistent with this Act, to any such subdivisions of the State in procuring such aid as the federal government may grant for the purpose of establishing and maintaining airports. Acts 1945, 49th Leg., p. 580, ch. 344, § 6.

¹ Articles 46c—1 to 46c—8.

Art. 46c—7. Federal Aid

Subdivision 1. Cooperation with Government. The Commission is authorized to cooperate with the Government of the United States, and any agency or department thereof, in the acquisition, construction, improvement, maintenance and operation of airports and other air navigation facilities in this State, and to comply with the provisions of the laws of the United States and any regulations made thereunder for the expenditure of federal monies upon such airports and other air navigation facilities.

Subdivision 2. Authority to Receive Federal Monies for State and Municipalities. It is authorized to accept, receive, and receipt for federal monies and other monies, either public or private for and in behalf of this State, or any municipality thereof, when authorized by the municipality to do so for the acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities, whether such work is to be done by the State or by such municipalities or any other political subdivision of the State of Texas aided by grants of aid from the United States, upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder, and it is authorized to act as agent of any municipality or other persons or person of this State upon the request of such municipality or person or persons in accepting, receiving, and receipting for such monies in its behalf for airports or other air navigation facility purposes, and in contracting for the acquisition, construction, improvement, maintenance, or operation of airports or other air navigation facilities, financed either in whole or in part by federal monies, and the governing body of any such municipality or other person or persons is authorized to designate the Commission as its agent for such purposes and to enter into an agreement with it prescribing the terms and conditions of such agency in accordance with federal laws, rules, and regulations and with this Act.¹ Such monies as are paid over by the United States Government shall be retained by the State or paid over to said municipalities or other person or persons under such terms and conditions as may be imposed by the United States Government in making such grants.

Subdivision 3. Contracts—Law Governing. All contracts for the acquisition, construction, improvement, maintenance, and operation of airports, or other air navigation facilities made by the Commission, either as the agent of this State or as the agent of any municipality or other person or persons shall be made pursuant to the laws of this State governing the making of like contracts; provided, however, that where the acquisition, construction, improvement, maintenance, and operation of any airport, landing strip, or other air navigation facility is financed wholly or partially with federal money, the Commission, as agent of the State or of any municipality or other person or persons thereof, may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other State law to the contrary.

Subdivision 4. Disposition of Federal Funds. All monies accepted for disbursement by the Commission pursuant to Subdivision 2 of this Section shall be deposited in the State Treasury, and unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the monies were made available, and held by the State in trust for such purposes. All monies are hereby appropriated for the purposes for which the same were made available, to be expended in accordance with federal laws and regulations and with this Act. The Commission is authorized, whether acting for this State or as the agent of any of its municipalities or other person or persons, or when requested by the United States Government or any agency or department thereof, to disburse such monies for the designated purposes, but this shall not preclude any other authorized method of disbursement. Acts 1945, 49th Leg., p. 580, ch. 344, § 7.

¹ Articles 46c—1 to 46c—8.

Art. 46c—8. Director of Aeronautics

Subdivision 1. Appointment—Qualifications—Compensation. A Director of Aeronautics shall be appointed by the Commission, who shall serve for an indefinite term at the pleasure of the Commission. He shall be appointed with due regard to his fitness, by aeronautical training and by knowledge of aeronautics, and a minimum of five (5) years recent practical experience in aeronautics, for the efficient dispatch of the powers and duties vested in and imposed upon him by this Act. He shall devote his entire time to the duties of his office as required and prescribed by this Act¹ and shall not be actively engaged or employed in any other business, vocation, or employment, nor shall he have any pecuniary interest in or any stock in or bonds of any civil aeronautics enterprise. He shall receive such compensation as may be provided in the biennial departmental appropriation bill and shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties.

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

Subdivision 3. Delegation of Powers. The Commission may, by written order filed in its office, delegate to the Director any of the powers or duties vested in or imposed upon it by this Act. Such delegated powers and duties may be exercised by such Director in the name of the Commission. Acts 1945, 49th Leg., p. 580, ch. 344, § 8.

¹ Articles 46c—1 to 46c—8.

TITLE 4—AGRICULTURE AND HORTICULTURE

CHAPTER SIX.—FRUITS AND VEGETABLES

Art.

118c—2. Cabbage Standardization and Inspections Act [New].

Art. 118c—2. Cabbage Standardization and Inspection Act

Name of act

This Act shall be known and may be cited as the "Cabbage Standardization and Inspection Act."

Preamble

In order to provide a means by which producers and shippers of cabbage may secure prompt and efficient inspection, classification, and grading of cabbage at reasonable cost, and because the Legislature of the State of Texas recognizes that the standardization of cabbage shipments through the proper grading and classification of cabbage, by prompt and efficient inspection under competent authority, will confer benefits upon growers, shippers, carriers, receivers, and consumers, in that the certification by competent authority will furnish the grower and shipper of such product with prima facie evidence of the quality, quantity, and condition of pack of the product so certified, and because such certification will guarantee to the carrier and receiver the quality of products carried and received by them and will assure the ultimate consumer of the quality of products delivered to him, this Act is passed.

Seasonal Limitation

The provisions of this Act shall be effective during the Texas Cabbage marketing season. The phrase "Texas Cabbage Marketing Season" as the same is used in this Act shall be construed to mean the period from the first day of December to the fifteenth day of March in each crop year.

Authority of commissioner

Section 1. The inspection and certification of grade, size, pack and marking and the designation of containers of cabbage shall be under the direction of the Commissioner of Agriculture of the State of Texas, hereinafter called the Commissioner.

Definitions

Sec. 2. For the purposes of this Act the following terms, when used in this Act, or the rules, regulations, and orders made pursuant thereto, shall be construed, respectively, to mean:

"Commissioner": The Commissioner of Agriculture of the State of Texas.

"Cooperative Agreement": That certain agreement in regard to shipping point inspection service, effective October 1, 1931, made by and between the Texas Department of Agriculture and the United States Department of Agriculture, and all amendments thereto, or any additional and/or supplementary agreements hereafter made by and between the Texas Department of Agriculture and the United States Department of Agriculture; said agreements being duly authorized by Public Statute Number 717, of the Seventy-first Congress. (United States Statutes at Large.)¹

"Inspector", "Agent", or "Employee": Any employee of the Department of Agriculture of the State of Texas and/or the Department of Agriculture of the United States of America duly authorized by either of the agencies aforesaid to inspect, grade, or certify for shipment cabbage within the State of Texas.

"Ship": The transportation of cabbage by rail, water, automobile, truck, trailer, or any other vehicle.

"Grade", "Standard", "Classification": The grades, standards, and classifications as to size, pack, and marking of cabbage adopted and promulgated by the Department of Agriculture of the United States of America and such other and different grades, standards, and classification as the Commissioner may adopt which are not directly in conflict therewith.

"Cooperative Financing Plan": That system of collecting and financing the expenses and requirements of inspection set out in and made a part of the Cooperative Agreement; it being specifically provided that this Act shall be self financing and that no appropriation shall be made by the Legislature of the State of Texas for the enforcement thereof.

"Dealer" and "Shipper": Any person, firm, partnership, corporation or association of persons packing and/or delivering for transportation to any transporting medium cabbage in commercial quantities, as the term "Commercial Quantities" is hereinafter defined.

"Commercial Quantities": More than one thousand (1,000) pounds of cabbage packed and/or shipped and/or sold for packing and/or shipment.

"Notice": Any notice provided for in this Act to be given to any person, firm, partnership, corporation, or association of persons shall be in writing, unless hereinafter otherwise specifically provided.

"Person": When used herein, shall be construed to mean any individual, firm, partnership, corporation, or association of persons.

"Inspection Certificate": The joint Federal-State Inspection Certificate, as provided in Section "c" of Paragraph 9, of the Cooperative Agreement.

"Deceptive Pack": Any container or subcontainer of cabbage used within this State having imprinted, inscribed or otherwise placed thereon any marking designating any grade, standard, count, arrangement and/or pack which does not truly represent the grade, standard, count, arrangement, and/or pack therein contained.

¹ Acts 1931, Feb. 23, ch. 278, 46 Stat. p. 1242.

Exclusions

Sec. 3. The following cabbage is hereby specifically excluded from the terms and provisions of this Act, and no inspection or certification thereof shall be required:

(A) Cabbage sold or delivered by the grower thereof unpacked and unmarked to any person for packing and resale.

(B) A sale of a crop or any part thereof in bulk by a producer thereof to a packer for grading, packing, processing, or storing.

(C) No provisions of this Act shall be construed to prevent a grower or packer from manufacturing cabbage into any by-product thereof or from selling the same unpacked or unmarked to any person actually engaged in the operation of a commercial by-product plant when the purpose of such sale is the conversion of such agricultural commodity into a by-product for resale.

(D) The requirements of this Act shall not be applicable to sale of cabbage in lots less than commercial quantities, as the term "commercial quantities" is in this Act defined.

Inspection

Sec. 4. When any person within this State has in his possession or control any cabbage for the purpose of packing for shipment in commercial quantities the said cabbage, such person shall give due and timely notice (said notice may be oral, written, or by telephone) to the Commissioner, his agent, inspector, or employee, as to the time and place of the packing and shipping of said cabbage, or shall report his intention to pack and ship the said cabbage to the inspection station nearest the point of loading, whereupon the Commissioner, his inspector, or employee, thereto duly authorized, shall proceed to the designated packing and/or shipping point and shall inspect the cabbage proposed to be shipped, and shall, after due and proper inspection, deliver to said dealer or shipper his certificate of inspection, said inspection certificate so delivered shall in all things conform to the inspection certificate provided for in the cooperative agreement; inspections under this Section, as to size, pack, marking, and type of container used shall be in conformity with the rules and regulations adopted and prescribed by the Commissioner relative thereto.

Certificate of inspection required

Sec. 5. From and after the effective date of this Act, it shall be unlawful for any dealer or shipper to deliver to, or for any private, contract or common carrier to accept for shipment, or to transport in commercial quantities any cabbage, unless the cabbage so shipped shall be accompanied by the certificate of inspection, provided for in Section 4 of this Act, and any shipper, private contract or common carrier shall have the right and may reserve the right in any receipt, bill of lading, or other contract or purchase or memorandum of the same, to reject for shipment any cabbage not accompanied by the certificate of inspection provided for in Section 4 of this Act. It is specifically provided that any private, contract or common carrier shall reject any tender of cabbage for shipment when the inspection certificate accompanying the same shall show on its face that the cabbage tendered are not in compliance with this Act.

Minimum standards

Sec. 6. From and after the effective date of this Act, no person within an area in which this Act is operative shall pack for sale, consign for sale, or sell or deliver to any transporting agency within this State in commercial quantities, any cabbage unless the said cabbage shall conform to the United States standards, grades, or classifications by this Act required, or the grades or classifications promulgated by the Commissioner pursuant to his authority herein granted.

Additional grades authorized

Sec. 7. The Commissioner is hereby authorized, in his discretion and if necessity requires, to adopt, prescribe, and promulgate other different and additional grades of cabbage provided that such other and different standards and grades shall not conflict with the United States grades herein adopted. The Commissioner is further authorized to issue rules and regulations relating to standards, grades, pack and marking of cabbage, as well as to containers and subcontainers to be used in the packing and shipping thereof.

Rules and regulations; protest; appeal

Sec. 8. The Commissioner shall cause to be published in newspapers of general circulation in counties affected by this Act within this State

such rules and regulations as he desires to promulgate under the terms of this Act. Any person aggrieved by any rule or regulation of the Commissioner so published shall, within fifteen (15) days from and after the publication thereof, file his protest with the Commissioner. Such protest shall contain a clear and concise statement of the reasons therefor. The Commissioner shall set a date for a hearing, said date to be not less or more than ten (10) days from and after the filing of said protest. The Commissioner or his agent or employee thereunto duly authorized, shall hold said hearing; said hearing shall be public in nature, and the Commissioner is authorized to hear testimony on the said protest, whereupon the Commissioner shall make his ruling upon the evidence introduced. Any person aggrieved by ruling of the Commissioner on the hearing of any protest under this Act, may, within ten (10) days from and after final decision by the Commissioner, have his appeal from the Commissioner's order to any Court of competent jurisdiction within this State; if no appeal is taken from the Commissioner's order within the ten (10) day period herein stipulated, the order of the Commissioner shall become final; it is specifically provided that no appeal taken from an order of the Commissioner shall operate in effect to suspend this law or any order of the Commissioner issued pursuant thereto, pending final determination of said appeal.

Containers

Sec. 9. The Commissioner is hereby authorized to prescribe containers for use in the shipment of cabbage and is authorized to promulgate and publish rules and regulations relative to the use of containers for the shipment of cabbage in the State of Texas; the rules and regulations adopted by the Commissioner shall conform to Article 109, Chapter 6, Revised Civil Statutes of Texas, 1925; the Commissioner is, however, hereby authorized to provide for and adopt other and different containers, provided that the use of such other and different containers is not prohibited under any Statutes of the United States, the rules of the Interstate Commerce Commission, or the regulations of the United States Department of Agriculture; no container or subcontainer used in the packing and/or shipment of cabbage within this State shall have imprinted or inscribed or otherwise placed thereon any designation of grade, standard, count, arrangement, or pack which is false and misleading; this provision shall be construed to prohibit, from and after the effective date of this Act, the use of any container of cabbage bearing any markings required by this Act or any designation of brand, trademark, quality, standard count arrangement, or grade, unless all markings which do not properly and accurately apply to the products therein packed, shall first be completely removed, erased or obliterated.

Contributions for inspection and grading

Sec. 10. It is provided that this law shall be self financing and that the Legislature shall make no appropriation for the enforcement thereof; the Commissioner is hereby authorized and empowered to enter into agreements with the United States Department of Agriculture relative to the amounts of contribution to be received from dealers and shippers for inspecting and grading services under the terms and provisions of this Act; it is further provided that the Commissioner may, in his discretion, adopt rules and regulations relating to such inspection contributions which will, in effect, adopt the financing plan provided under the Cooperative Agreement, provided that the contribution shall be fixed as nearly as possible with reference to the cost of maintaining the expenses of inspection and grading cabbage under the Cooperative Agreement;

the amount of contribution for each different service of an inspection and grading rendered may be different, but in no event shall the contribution for inspection of cabbage exceed Five Dollars (\$5) per car lot for inspection or grading service rendered in a regular packing house, or at a regular loading point, it is specifically provided that any regular inspection or grading service made or performed at a point distant from a packing shed or loading point, shall be for an amount sufficient to cover the actual cost of such inspection and/or grading service; all contributions for inspection or grading services rendered shall be paid and delivered to the inspector by the person packing or making the shipment prior to the delivery of the certificate of inspection; whenever any person so packing and/or shipping cabbage fails or refuses to pay the contribution prescribed for the services rendered, the inspector shall withhold delivery of the inspection certificate until the prescribed contribution is paid; no inspector, agent, or employee shall charge or collect a greater sum than the prescribed contribution for the services rendered; all moneys contributed for services of inspection and/or grading under the terms and provisions of this Act shall be handled and disbursed under the terms of the Cooperative Agreement; the county auditor of any county, in which this Act is operative, shall have access to the financial records, books, vouchers, and reports of the chief inspector at all times and shall have the authority to make an audit of such books, when in his judgment, an audit shall be deemed wise, and, upon written request of the Commissioner, said county auditor shall audit and make his report in writing to the Commissioner regarding the fiscal affairs of the contribution account.

Prohibited acts; penalties

Sec. 11. From and after the effective date of this Act, it shall be unlawful for any individual, firm, partnership, corporation, or association of persons to:

(A) Willfully or knowingly interfere with the Commissioner or any agent, inspector or employee, as these terms are in this Act defined, in the performance of their duties under this Act;

(B) To ship any cabbage without first obtaining the inspection certificate required under the terms and provisions of this Act;

(C) Knowingly and willfully deliver to any transporting medium or agency any cabbage "deceptively packed";

(D) Use any container or subcontainer in the packing and/or shipping of cabbage which has imprinted, inscribed or otherwise placed thereon any designation of grade, standard size, count, or pack which is false and/or misleading;

(E) Use in the shipment of cabbage in or from the State of Texas, any container or subcontainer, the use of which is not authorized by law and/or the rules, regulations, and orders of the Commissioner;

(F) Falsify, forge, or change any inspection certificate required under the terms and provisions of this Act;

(G) To willfully and knowingly fail and refuse to obey any order, rule or regulation issued by the Commissioner pursuant to his authority granted under the terms and provisions of this Act;

(H) It shall be unlawful for any transporting agency or medium or agent of any transporting medium to accept for transportation any cabbage when the inspection certificate accompanying and relating to such cabbage shows on its face that the cabbage so delivered to such transporting medium are not properly certified for transportation;

(I) It shall be unlawful for the Commissioner, his agents, inspectors and/or employees to engage in business as dealers in cabbage, save and except that this Section shall not be construed to in anywise prohibit

the Commissioner, his agents, inspectors and/or employees from selling, in the capacity of producers, of cabbage grown and produced by them.

Any person violating any of the terms or provisions of this Act shall be guilty of a misdemeanor and on conviction shall be fined not to exceed Two Hundred Dollars (\$200).

Act cumulative

Sec. 12. This Act shall be cumulative of all laws now operative in the State of Texas relating to the inspection and/or grading and/or standardization of cabbage, provided that all laws or parts of laws specifically conflicting herewith are hereby repealed.

Partial invalidity

Sec. 13. If any section, subsection, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Saving clause

Sec. 14. 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 the State of Texas, and Title 126, Revised Civil Statutes of Texas, 1925, and if any provision of this Act is held to be in contravention of or conflict with any of said laws, then said provision shall be null and void and of no force or effect. Acts 1945, 49th Leg., p. 274, ch. 203.

Emergency. Effective May 11, 1945.

TITLE 7—ANIMALS

2. DESTRUCTION OF ANIMALS	Art.
Art.	190h. Bounties on predatory animals and rattlesnakes in all counties [New].
190g—3. Bounties on rattlesnakes and predatory animals in Williamson county [New].	3. LIVESTOCK REMEDIES [New]
190g—4. Bounties on rattlesnakes and predatory animals in certain counties [New].	192—1. Texas livestock Remedy Act.

2. DESTRUCTION OF ANIMALS

Art. 190g—3. Bounties on rattlesnakes and predatory animals in Williamson county

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

The Commissioners Court may by Resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said County shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require. Acts 1945, 49th Leg., p. 47, c. 29, § 1.

Emergency. Effective March 14, 1945.

Title of Act:

An Act granting the Commissioners Court of Williamson County permission to pay out of the General Fund of said County

bounties for the destruction of rattlesnakes and predatory animals; and declaring an emergency. Acts 1945, 49th Leg., p. 47, c. 29.

Art. 190g—4. Bounties on rattlesnakes and predatory animals in certain counties

Section 1. The Commissioners Courts of San Patricio, Bee, Aransas, and Refugio Counties, Texas, in order to preserve game, and to protect the interest of livestock and poultry raisers of said Counties, is hereby authorized to pay out of the general fund of said Counties bounties for the destruction of rattlesnakes, wolves, coyotes, panthers, bobcats, and other predatory animals; said bounty to be set by the Commissioners Courts of San Patricio, Bee, Aransas, and Refugio Counties, Texas, at an amount not to exceed Five Dollars (\$5) per animal for wolves, coyotes, panthers, and bobcats; Fifty (50) Cents for coons, skunks, opossum, and like animals, and Ten (10) Cents for rattlesnakes; said Commissioners Courts, by resolution entered upon the minutes of the Commissioners Courts, to specify the amount of bounty to be paid for each of the said predatory animals and for rattlesnakes not to exceed the amounts as set forth above; and to prescribe such proof and regulations as are necessary in order to protect the interests of such Counties.

Sec. 2. Such bounties as may be prescribed by the Commissioners Courts of San Patricio, Bee, Aransas, and Refugio Counties, for the destruction of rattlesnakes and predatory animals, shall be paid upon warrant drawn by the County Judge on the general fund of said Counties. Acts 1945, 49th Leg., p. 154, ch. 105.

Emergency. Effective April 30, 1945.
 Title of Act:
 An Act granting to the Commissioners Courts of San Patricio, Bee, Aransas, and Refugio Counties, Texas, permission to pay out of the county general fund of said

Counties bounties for the destruction within said Counties of rattlesnakes and predatory animals; providing method of payment of such bounties; and declaring an emergency. Acts 1945, 49th Leg., p. 154, ch. 105.

Art. 190h. Bounties on predatory animals and rattlesnakes in all counties

Section 1. From and after the effective date of this Act all County Commissioners Courts throughout the State of Texas may pay a bounty not to exceed Five Dollars (\$5) out of the General Fund of the County for the killing of all Jaguar, Cougar, Ocelot, Jaguarondi, Bob Cat, Gray Wolf, Red Wolf, Florida Wolf, Coyote, Javelina and Rattlesnake. The Commissioners Courts shall have authority to determine what animals are predatory within said County and said Court may further determine eligibility of persons to whom bounties will be paid.

Sec. 2. The amounts paid as bounties for the destruction of predatory animals in any county shall be paid by a warrant drawn upon the General Fund of the county by the Judge of said county upon the filing with him of such proof as the Commissioners Court may require. Acts 1945, 49th Leg., p. 83, ch. 59.

Emergency. Effective April 3, 1945.
 Title of Act:
 An Act granting the Commissioners Courts the privilege of paying a bounty for

the destruction of predatory animals; providing amount and manner of payment; and declaring an emergency. Acts 1945, 49th Leg., p. 83, ch. 59.

3. LIVESTOCK REMEDIES [NEW]

Art. 192—1. Texas Livestock Remedy Act

Title

Section 1. This Act shall be known and may be referred to as the "Texas Livestock Remedy Act".

Definitions

Sec. 2. For the purposes of this Act:

(a) The term "person" includes individual, partnership, corporation, and association.

(b) The term "drug" means (1) articles recognized in the official United States Pharmacopœia, official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man; and (3) preparations for external or internal use in the eradication of parasites in or on livestock, poultry or other domestic animals; and (4) articles (other than feed) intended to affect the structure of any function of the body of animals other than man; and (5) articles intended for use as a component of any articles specified in clause (1), (2), or (3) of this Section.

(c) The term "label" means a display of written, printed or graphic matter upon the immedicate¹ container of any article; and a requirement made by or under authority of this Act that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(d) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrap-

pers, or (2) accompanying such article. But this shall not be construed as including advertising matter not attached to such article or the container thereof used for display purposes only.

(e) The term "animal" means any animate being which is not human, endowed with the power of voluntary action.

(f) The term "livestock remedy" shall mean and include all drugs, combinations of drugs, proprietary medicines, and combinations of drugs and other ingredients which have been prepared or compounded for animal use, except that feeding stuff or mineral feed supplements shall not be included.

(g) The term "State Health Officer" shall mean the State Health Officer of the State of Texas. As amended Acts 1945, 49th Leg., p. 529, ch. 317, § 1.

¹ So in enrolled bill. Probably should read "immediate."

Unlawful Acts

Sec. 3. The following acts and the causing thereof within the State of Texas are hereby declared unlawful:

(a) The sale, delivery, holding or offering for sale of any livestock remedy which has not been registered with the State Health Officer as provided in Section 4 hereof;

(b) The manufacture, sale, delivery, holding or offering for sale of any livestock remedy that is adulterated or misbranded;

(c) The compounding or manufacture by anyone of any livestock remedy that is to be offered for sale or distribution unless such compounding or manufacture is done under the supervision of either a licensed, graduate veterinarian or a graduate chemist or a licensed pharmacist;

(d) The dissemination of any advertisement which is false or misleading in a material respect: Provided, that no person or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be subject to the penalties of this Act by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the State Health Officer, to furnish the name and address of the manufacturer, packer, distributor, seller or advertising agency who caused him to disseminate such advertisement;

(e) The refusal to permit entry or inspection, or to permit the acquisition of a sample or specimen of a livestock remedy, as authorized by Section 9 hereof;

(f) The disposal of a detained article in violation of Section 10 hereof;

(g) The giving of a guaranty which is false, except by a person who relied on a guaranty to the same effect signed by, and containing the name and address of, the person from whom he received the livestock remedy in good faith;

(h) The alteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling of any livestock remedy if such act results in such livestock remedy being misbranded, or the doing of any act which may result in the misbranding of such article;

(i) The forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device required by the provisions of Section 8 hereof;

(j) The use or revelation by the State Health Officer or any authorized agent or any employee of the State Health Officer of information acquired under authority of Sections 4 and 9 of this Act, except in the

proper enforcement of this Act or to the courts when relevant in any judicial proceeding under this Act;

(k) The manufacture, sale or offer to sell, of any biological product that is intended for use on any livestock, unless such product is manufactured in one of the following ways:

1. Under license issued by the Federal Bureau of Animal Industry, in compliance with the regulations of such Bureau;
2. Under the direct supervision of the officials of a State Experimental Station;
3. Under the direct supervision of the officials of the Agricultural and Mechanical College of Texas.

(l) The sale or offer to sell of any biological product that has not been kept in refrigeration since its manufacture, under conditions as prescribed by the rules and regulations of the Federal Bureau of Animal Industry;

(m) The alteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling, mark of registration or brand on any livestock remedy by any vendor thereof if such article is sold in its original package.

Registration

Sec. 4. (a) Any person may make application for the registration of a livestock remedy by filing with the State Health Officer on forms furnished by him, a sworn statement with respect thereto setting forth:

(1) The name and principal address of the manufacturer or person responsible for placing such livestock remedy on the market;

(2) The name, brand or trademark under which the livestock remedy is to be sold;

(3) The minimum net contents of the package, lot or parcel of such livestock remedy (stated by weight in the case of solids and by volume in the case of liquids, and by both count and weight or volume per dose in the case of dosage forms);

(4) The English name of each active ingredient, except in the case of livestock remedies for insecticidal use, the name and percentage of each active ingredient together with the total percentage of inert ingredients or the name and percentage of each inert ingredient or the words "active ingredients 100%" when the article consists of ingredients all of which will prevent, destroy, repel or mitigate insects or parasites;

(5) The percentage of diluent filler or inert ingredient;

(6) If present, the name and quantity or proportion of all anthelmintic drugs, alcohol, strychnine, arsenic, lead, mercury, chloroform, or any derivative or preparation of such substances;

(7) If present, the minimum percentages of phosphorus (P) and iodine (i) and the maximum percentages of calcium (Ca) and salt (NaCl);

(8) If present, the quantity of vitamin A in U. S. P. units, vitamin D for poultry in A. O. A. C. chick units, vitamin D for other animals in U. S. P. units, and all other vitamins in milligrams or micrograms per gram, ounce or pound, in the case of solids and per milliliter, fluid ounce, or pint in the case of liquids, or per count in the case of dosage forms;

(b) A label or specimen of labeling for any livestock remedy shall accompany each application for registration, and when requested by the State Health Officer a representative and true sample or specimen of each livestock remedy to be registered.

(c) If the State Health Officer after examination and investigation finds the application and labeling comply with the requirements of this Act, a certificate of registration shall be issued the applicant on payment of a registration fee as hereinafter provided. All such certificates

shall be issued for a period not exceeding one year, expiring on December 31st of each year. No certificate shall be construed as a recommendation or endorsement of the livestock remedy registered.

(d) The provisions of this section shall not apply to a livestock remedy intended solely for investigational, experimental or laboratory use by qualified persons, provided the article is plainly labeled "For Investigational Use Only".

(e) Nothing in this Act shall apply to any product registered with the Commissioner of Agriculture under the provisions of Chapter 98, Acts of the Regular Session of the 48th Legislature.¹

¹ Article 135b—1.

Registration Fees

Sec. 5. To provide for the costs of enforcement of this Act:

(a) The State Health Officer shall, prior to the issuance of an original certificate of registration for any livestock remedy, collect from the applicant therefor a registration fee of not more than Ten Dollars (\$10.00) for each separate and distinct article registered; or a blanket fee of not more than One Hundred Dollars (\$100.00) of any manufacturer or person registering ten or more products: Provided, that for a period of six months or less the original registration fees above mentioned shall be halved; and, provided further, that when a livestock remedy has been registered and the registration fee paid by the manufacturer or distributor, no other person shall be required to pay such fee.

(b) Registration of any livestock remedy may be continued in force and effect upon the payment of an annual renewal fee of not more than Ten Dollars (\$10.00) for each separate and distinct product registered; or a blanket renewal fee of not more than One Hundred Dollars (\$100.00) of any manufacturer or person registering ten or more products. Provided, that such re-registration must be applied for and all renewal fees paid on or before January 31st of each year.

(c) In the event the registration fees above set forth provide more revenue than necessary for the enforcement of this Act, the State Health Officer is hereby authorized and directed to reduce such fees by regulation, or by regulation to increase such fees if deemed necessary, but not in excess of the fees specified in sub-sections (a) and (b) hereof.

(d) Any retailer of livestock remedies who has bought a supply of such remedies at a time when such articles were duly registered shall be allowed to sell or otherwise dispose of the same without re-registering such articles.

Appropriations

Sec. 6. All monies received by the State Health Officer from registration fees shall be deposited in the State Treasury and there set apart as a fund to be used by the State Health Officer in enforcement of this Act, until August 31, 1947, after which time said monies shall be deposited to the General Revenue Fund, and the number of employees and the salary of each shall be fixed in the departmental appropriation bill. Such fund is hereby appropriated to the State Health Officer, and any unexpended balance at the close of the fiscal year is hereby reappropriated to the State Health Officer for the ensuing year. It is provided that salaries for any employees authorized by this Act shall be the same as for similar positions authorized by the departmental appropriation bill. This section shall be effective September 1, 1945.

Adulteration

Sec. 7. A livestock remedy shall be deemed to be adulterated:

(a) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to animal health;

(b) If its composition, purity, strength, or quality falls below or differs from that which it is purported or is represented to possess by its labeling: Provided, the State Health Officer is hereby authorized and directed to allow a reasonable tolerance from such representation as is in accordance with good manufacturing practices.

Misbranding

Sec. 8. A livestock remedy shall be deemed to be misbranded:

(a) Unless its label bears:

(1) The name and principal address of the manufacturer or person responsible for placing such livestock remedy on the market;

(2) The name, brand, or trademark under which the livestock remedy is sold;

(3) The minimum net contents of the package, lot or parcel (stated by weight in the case of solids, by volume in the case of liquids, and by both count and weight or volume per dose in the case of dosage forms);

(4) The English name of each active ingredient, except in the case of livestock remedies for insecticidal use, the name and percentage of each active ingredient together with the total percentage of inert ingredients or the name and percentage of each inert ingredient or the words "active ingredients 100%" when the article consists of ingredients all of which will prevent, destroy, repel or mitigate insects or parasites;

(5) Adequate directions for use;

(6) Adequate warnings against use in those conditions whether pathological or normal where its use may be dangerous to health of animals, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of animals;

(b) If its labeling is false or misleading in any material particular;

(c) If its container is so made, formed, or filled as to be deceptive or misleading as to amount of contents;

(d) If it is dangerous to health of animals when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof;

(e) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(f) Provided, however, that any livestock remedy that is manufactured and distributed under license from and under the supervision of the Federal Bureau of Animal Industry and in compliance with the regulations of such Bureau, shall be deemed in compliance with this section of this Act.

Inspection and Examination

Sec. 9. (a) The State Health Officer or a duly authorized agent shall have free access at all reasonable hours to any establishment in which livestock remedies are manufactured, processed, packed, sold, or offered for sale, for the purpose of inspection of such premises and determining whether or not any provision of this Act is being violated.

(b) The State Health Officer or a duly authorized agent may secure samples or specimens of any livestock remedy after paying or offering to pay therefor, and shall make an examination or analysis of such sample to determine whether or not any provision of this Act is being violated.

Detained Articles

Sec. 10. (a) Whenever the State Health Officer or a duly authorized agent finds or has reasonable cause to believe a livestock remedy is adulterated or misbranded within the meaning of this Act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained, and warning all persons not to dispose of such article in any manner until permission is given by the State Health Officer or the court. Provided that any such article may at the discretion of the manufacturer or vendor be removed from display, but left on the premises.

(b) If such a detained article is found after examination and analysis to be adulterated or misbranded the State Health Officer shall petition the judge of the police, county or district court in whose jurisdiction the article is detained for a libel for condemnation of such article. If the State Health Officer finds that such detained article is not adulterated or misbranded he shall remove the tag or other marking.

(c) If the court finds that a detained livestock remedy is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the defendant, under the supervision of the State Health Officer or a duly authorized agent; and all court costs and fees, storage and other proper expenses, shall be levied against the defendant or his agent; provided, that when the adulteration or misbranding can be corrected by proper processing or labeling of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so processed or labeled, has been executed, may make an order directing that such article be delivered to the defendant for such processing or labeling under the supervision of an agent of the State Health Officer. The expense of such supervision shall be paid by the defendant. The bond shall be returned to the defendant on representation to the court by the State Health Officer that the article is no longer in violation of this Act, and that expenses incident thereto have been paid.

Penalties

Sec. 11. (a) Any person who violates any of the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a penalty of not more than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

(b) It shall be the duty of each state, county, or city attorney to whom the State Health Officer reports any violation of this Act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner provided by law. Before any violation of this Act is reported to any such attorney for the institution of criminal proceedings, the person against whom the proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the State Health Officer or a designated agent, either orally or in writing, in person or by attorney, with regard to such contemplated proceeding.

(c) Nothing herein contained shall be construed as requiring the State Health Officer to report for the institution of proceedings under this Act, minor violations of this Act, whenever the State Health Officer believes the public interest will be adequately served in the circumstances by a suitable written notice or warning.

Veterinarians and Pharmacists

Sec. 12. Nothing in this Act shall be construed as being applicable to or interfering with the compounding and dispensing of veterinarians' prescriptions, nor the dispensing of drugs or preparations by registered pharmacists compounded at the request of the purchaser and not intended for the purpose of resale.

Regulations

Sec. 13. (a) The State Health Officer is hereby charged with the enforcement of this Act, and is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of this Act; provided, that such rules and regulations shall conform, insofar as practicable, with the rules and regulations promulgated under the Federal Food, Drug and Cosmetic Act, and with the rules and regulations promulgated by Federal Bureau of Animal Industry; and provided that such power to promulgate rules and regulations shall extend to a reasonable enforcement of this Act and no further.

(b) The State Health Officer is hereby authorized and directed to promulgate regulations exempting from any labeling and packaging requirements of this Act livestock remedies or components thereof which are, in accordance with the practice of the trade, to be processed, labeled, or repacked at establishments other than those where originally processed or packed; but such articles, when so processed, labeled or repacked, shall be subject to all the provisions of this Act.

Constitutionality

Sec. 14. All parts of laws inconsistent herewith insofar as the same affect livestock remedies are hereby repealed, and 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 applicability thereof to other persons or circumstances shall not be affected thereby. Acts 1945, 49th Leg., p. 138, ch. 94.

Effective 90 days after June 5, 1945, date of adjournment.

Title of Act:

An Act regulating the manufacture, sale, offering to sell and labeling of livestock remedies; providing for registration with

State Health Officer; providing for fees; providing for enforcement; providing penalties; providing a saving clause; allocating fees; appropriating funds; and declaring an emergency. Acts 1945, 49th Leg., p. 138, ch. 94.

TITLE 8—APPORTIONMENT

Art. 199. 30, 22, 17 Judicial Districts

7.—Upshur, Wood and Smith.

Special District Court of Smith and Wood Counties

(a) The Special District Court set up and provided for by this Act shall be composed of Smith and Wood Counties, and the terms of said District Court shall be held therein as follows:

In Smith County on the first Mondays in January, April, July and October;

In Wood County on the first Mondays in March, June, September and December.

Each term of Court in each County shall continue in session until the date fixed herein for the beginning of the next term in each County, respectively.

(b) The Judge of said Court may, in his discretion, hold as many sessions of the Court in any term in either County, for the trial of cases, as is deemed necessary and expedient for the proper dispatch of the business of the Court.

(c) All processes issued and served, bonds and recognizances made, and all Grand and Petit Juries drawn before this Act takes effect shall be valid for and returnable to the District Courts of said Counties as herein provided as if the same had been issued, served, made or taken, for the succeeding term of the Courts as provided herein.

(d) Provided that if any Court in said Counties of said District shall be in session when this Act takes effect, such Court or Courts affected thereby shall continue in session until the term thereof shall expire under present laws, but thereafter the Courts in said District shall conform to the requirements of this Act.

(e) The Special District Court of Smith and Wood Counties as herein provided for shall have, and the Judge thereof shall have, all of the jurisdiction and authority of a District Court of general jurisdiction, and a District Judge, as provided by the Constitution and Laws of this State; and the Judges of said Court and of the Seventh District Court in Smith and Wood Counties may transfer cases from one of said Courts to the other in said Counties, either in termtime or vacation, and any cases so transferred may be tried and disposed of by the Court to which it is transferred.

(f) The Judge of the Special District Court of Smith and Wood Counties shall have the authority to approve all bills of exception, statements of fact, and all other matters to complete the disposition of any cases that may have been heard and tried in said Special District Court before this Act becomes effective.

Sec. 2. The Judge of the Special District Court of Smith and Wood Counties, at the time this Act becomes effective, shall continue to serve as the Judge of the District Court of Smith and Wood Counties, as hereby reorganized and provided, until his successor is elected and qualified.

Sec. 3. The Special District Court as hereby reorganized and provided for Smith and Wood Counties shall cease to exist on June 15, 1947, and the term of office of the Judge thereof shall expire by operation of law at said time; and upon the expiration of said Court, the District Clerks in Smith and Wood Counties, respectively, who are hereby made clerks of the Special District herein provided for in their respective

Counties, shall immediately transfer all cases then pending and undisposed of in said Special District Court in their respective Counties, to the Seventh District Court in the respective Counties, and all process, bonds and recognizances in cases then pending and undisposed of in any cases so transferred, shall be valid and effective in the Seventh District Court; and the Judge of the Special District Court, as hereby reorganized, shall have authority, after the expiration of said Court as provided herein, to approve all bills of exception, and statements of fact in any cases tried in said Special District Court, in which such approval is necessary. As amended Acts 1945, 49th Leg., p. 284, ch. 206, § 1.

Emergency. Effective May 11, 1945.

9.—Polk, San Jacinto, Montgomery and Waller.

Montgomery, Polk and San Jacinto Counties

Sec. 11. Said Special Ninth District Court of Montgomery, Polk, and San Jacinto Counties created by this Act shall cease to exist the 30th day of June, 1943, at which time the term of office of the Judge of said Court shall expire by limitation of law and the provisions of this Act, except those as embodied in Section 12 herein.

Expiration date, see section 9 of Acts 1939, 46th Leg., p. 162, as amended, adding Trinity county, as set out post.

Trinity County

Sec. 9. Said Special 9th District Court of Montgomery, Polk, San Jacinto and Trinity Counties, as created by Senate Bill No. 270 of the Acts of the Regular Session of the Forty-sixth Legislature, and extended by Senate Bill No. 158, of the Acts of the Regular Session of the Forty-eighth Legislature, and hereby extended, shall cease to exist on the thirtieth day of June, 1947, at which time the term of office of the Judge of said Court shall expire by limitation of law. As amended Acts 1945, 49th Leg., p. 286, ch. 207, § 1.

Emergency. Effective June 30, 1945.

28.—Nueces, Kleberg and Kenedy.

See 94th Judicial District.

Effective Jan. 1, 1947, the Criminal District Court for Nueces, Kleberg, Kenedy, Willacy and Cameron counties created by Acts 1925, 39th Leg., p. 244, ch. 79, becomes a court of general jurisdiction to be known as the 107th Judicial District Court, composed of the counties of Willacy and Cameron. See 107th Judicial District under this article.

Concurrent jurisdiction of 28th Judicial

District Court in County of Nueces with the 94th and 117th Judicial District Courts, see 107th Judicial District under this article.

District attorney of Criminal District Court of Nueces, Kleberg, Kenedy, Willacy and Cameron Counties to serve 28th Judicial District Court in Counties of Nueces, Kleberg and Kenedy only after Jan. 1, 1947, see 107th Judicial District under this article.

39. Haskell, Stonewall, Kent and Throckmorton.

Hereafter the Thirty-ninth Judicial District shall be composed of Haskell, Stonewall, Kent and Throckmorton Counties, Texas, and the terms of the District Court in each of said Counties shall be held therein each year as follows:

Beginning:

In Haskell County, on the first Monday in January; the fifteenth Monday after the first Monday in January; and on the third Monday after the first Monday in September;

In Stonewall County, on the sixth Monday after the first Monday in January; on the twentieth Monday after the first Monday in January; and on the ninth Monday after the first Monday in September;

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

In Kent County, on the ninth Monday after the first Monday in January and on the first Monday in September;

In Throckmorton County, on the twelfth Monday after the first Monday in January; on the twenty-third Monday after the first Monday in January; on the twelfth Monday after the first Monday in September;

And each term of Court in each of such counties shall continue until the date set herein for the beginning of the next succeeding term thereof. The Judge of said Court may hold as many sessions in any term of Court in any county as is deemed by him proper and expedient for the dispatch of business. As amended Acts 1945, 49th Leg., p. 222, ch. 165, § 1.

Emergency. Effective May 7, 1945.

63. Val Verde, Terrell, Edwards, Kinney and Maverick.

The 63rd Judicial District shall be composed of the Counties of Val Verde, Terrell, Edwards, Kinney and Maverick, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Val Verde on the first Mondays in January and July;

In the County of Terrell on the first Mondays in February and August;

In the County of Edwards on the first Mondays in March and September;

In the County of Kinney on the first Mondays in April and October; and

In the County of Maverick on the first Mondays in May and November.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 2. The judge of said court, in his discretion, may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business. As amended Acts 1945, 49th Leg., p. 197, ch. 150, § 1; Acts 1945, 49th Leg., p. 516, ch. 314, § 1.

Emergency. Effective June 5, 1945.

Judicial District 63 was amended by two separate acts in 1945, but such amendments contained identical provisions. The amendment by Acts 1945, ch. 150, became effective May 3, 1945, and the amendment by Acts 1945, ch. 314, became effective June 5, 1945.

Sections 3 and 4 of the Acts of 1945 read as follows:

"Sec. 3. All processes issued, bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein

fixed, as though issued and served for such terms and returnable to and drawn for the same. All processes issued and made returnable on or before Monday next after the expiration of twenty days from the date of service thereof shall be valid, and unaffected by this Act.

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

88, 91.—Eastland.

Acts 1945, 49th Leg., p. 308, ch. 223, §§ 1-3, eff. 90 days after June 5, 1945, date of adjournment read as follows:

"Section 1. The 88th Judicial District and the District Court thereof are hereby abolished.

"Sec. 2. Any cases pending upon the docket of said court shall be transferred by the clerk to the docket of the District Court

for the 91st Judicial District. The Judge of the District Court of the 88th Judicial District shall have authority and power after the abolishment of his court to approve any and all statements of fact, bills of exceptions, or make any other order necessary in cases tried in said court and appealed.

"Sec. 3. All processes and writs hereto-

fore issued out of the District Court of said 88th Judicial District and returnable to said court are hereby made returnable to the District Court of the 91st Judicial District, and all bonds executed and recognizances entered in said District Court of the 88th Judicial District shall bind the parties for their appearances or to fulfill the obligations of such bonds and recognizances in the District Court of the 91st Judicial District; all processes heretofore returned, as well as all bonds and recog-

nizances heretofore taken in the District Court for the 88th Judicial District shall be valid and made returnable to the next ensuing term of the 91st Judicial District; and the obligees in all appearance bonds and recognizances taken in and for the District Court of the 88th Judicial District, as well as all witnesses summoned to appear before the District Court for the 88th Judicial District, shall be required to appear at the next term of the District Court of the 91st Judicial District."

94.—Nueces.

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

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

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

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

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

Sec. 6. All suits and proceedings hereafter instituted in the District Courts of Nueces County shall be numbered consecutively, beginning with the next number after the last file number on the docket of the existing Courts, and shall be entered upon the dockets of said Courts in the same manner as provided in Section 5 of this Act.

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

thereof, and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause.

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

Sec. 9. The Governor, upon this Act taking effect, shall appoint a suitable person possessing qualifications prescribed by the Constitution and Laws of this State as Judge of the District Court of the 94th Judicial District of Texas, as herein constituted, and such person shall hold said office until the next general election, and until his successor shall have been elected and qualified, and thereafter the Judge of the District Court of the 94th Judicial District of Texas shall be elected as prescribed by the Constitution and Laws of this State for the election of District Judges. As amended Acts 1945, 49th Leg., p. 45, c. 28, § 1.

Emergency. Effective March 14, 1945.

Section 2 of the amendatory Act of 1945 repealed all laws or parts of laws in conflict herewith.

97.—Archer, Clay and Montague.

Section 1. The Counties of Archer, Clay and Montague shall hereafter constitute and be the Ninety-seventh Judicial District of the State of Texas, and the terms of the District Courts shall be held in said District as follows:

In Archer County on the first Monday in January; on the first Monday in April; on the first Monday in July; on the first Monday in October.

In Clay County on the first Monday in February; on the first Monday in May; on the first Monday in August; on the first Monday in November.

In Montague County on the first Monday in March; on the first Monday in June; on the first Monday in September; on the first Monday in December.

Each term of Court in each of such Counties shall continue until the date herein fixed for the beginning of the next succeeding term therein.

It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act.

Sec. 2. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed proper and expedient for the dispatch of business. Acts 1945, 49th Leg., p. 107, ch. 75.

Emergency. Effective April 10, 1945.

Sections 3-7 of the Act of 1945 read as follows:

"Sec. 3. That all process and writs heretofore issued out of the District Courts of said respective Counties constituting the District herein mentioned and returnable to terms of Court in said Counties according to existing law are hereby made returnable to the terms of the District Courts of said respective Counties as said terms are fixed by this Act, and all bonds executed and recognizances entered in said Courts shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of said Courts as they are fixed by this Act,

and all process heretofore returned as well as all bonds and recognizances heretofore taken in District Courts of said respective Counties shall be as valid as though no change had been made in the said District and the time of holding Courts therein, and all Grand and Petit jurors drawn and selected under existing laws for any of the Counties of said District are hereby declared lawfully drawn and selected for the first term of the District Courts of such respective Counties held in conformity with this Act.

"Sec. 4. All process issued, bonds and recognizances made and all Grand and Petit Juries drawn before this Act takes effect shall be valid and returnable to the

next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

"Sec. 5. The County Attorneys of the respective Counties embraced within the Ninety-seventh Judicial District shall do and perform the duties of the County Attorneys and District Attorneys in their respective Counties, and shall receive such fees for their services as are now or may hereafter be provided by law.

"Sec. 6. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

"Sec. 7. If any section, paragraph or provision of this Act be held or declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect."

99.—Lubbock.

Terms of Court

Section 1. The terms of the District Court for the 99th Judicial District in and for Lubbock County shall be held as follows:

On the first Monday in January and July of each calendar year, and shall continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said 99th District Court in Lubbock County, Texas.

Sec. 2. All processes issued, bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the term of the 99th District Court in said county as herein fixed as though issued and served for such term and returnable to and drawn for the same.

Sec. 3. If a section, paragraph or provision of this Act be held or declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs and provisions of this Act, but the same shall remain in full force and effect. This Act shall not prevent the holding and closing under present laws of any term of court that may be in session when this Act takes effect. Acts 1945, 49th Leg., p. 200, ch. 153.

Emergency. Effective May 4, 1945.

103.—Cameron and Willacy.

Jurisdiction with relation to the 107th Judicial District Court, see 107th Judicial District under this article.

107.—Willacy and Cameron.

That from and after the first day of January, A. D. 1947, the 28th Judicial District of Texas shall be composed of the Counties of Nueces, Kleberg, and Kenedy, and shall be a Court of general jurisdiction, with the jurisdiction conferred upon District Courts by the constitution and laws of the State of Texas; and in the County of Nueces, it shall have concurrent jurisdiction with the 94th and 117th District Courts.

On the effective date of this Act, the Criminal District Court of Nueces, Kleberg, Kenedy, Willacy and Cameron Counties shall become a Court of general jurisdiction, with the jurisdiction provided by the Constitution and Laws of the State of Texas for District Courts, and shall be composed of the Counties of Willacy and Cameron, and thenceforth be known as the 107th Judicial District of Texas; and shall have concurrent jurisdiction with the 103rd Judicial District Court within said two Counties; provided that the 107th District Court shall give preference to criminal cases. The 103rd Judicial District Court shall be a Court of general jurisdiction, with the jurisdiction provided by the Constitution and Laws of the State of Texas, and shall continue to be composed of the Counties of Willacy and Cameron, but shall give preference

to civil cases and shall not, except in cases of emergency, be required to empanel Grand Juries.

Sec. 2. All cases upon the docket of the Criminal District Court of Nueces, Kleberg, Kenedy, Willacy and Cameron Counties, in the Counties of Nueces, Kleberg and Kenedy, shall, on the effective date of this Act, be transferred by the District Clerks of said Counties to the docket of the 28th District Court, and the Judge of said 28th District Court to which said cases shall be transferred, shall thereafter have power, authority, and jurisdiction to try such cases so transferred to such Court, and in addition to approve all statements of fact, bills of exception, and to make any and all orders, decrees and judgments proper and necessary in any case theretofore tried by the said Criminal District Court above named, within said Counties; provided that any such action or actions be taken within the same time limits that would have governed the Judge of the Court from which said cause or causes were transferred.

Sec. 3. All cases upon the docket of the Criminal District Court of Nueces, Kleberg, Kenedy, Willacy and Cameron Counties, in the Counties of Cameron and Willacy, shall, on the effective date of this Act, be considered as on file in the 107th District Court, as herein denominated, and the Judge of said 107th District Court, as herein denominated shall have power, authority, and jurisdiction to try all such cases, and in addition, to approve all statements of fact, bills of exception, and to make any and all orders, decrees, and judgments proper and necessary in any cases theretofore tried by the said Criminal District Court, hereinabove named, within said two Counties; provided, that any such action or actions be taken within the same time limits that would have governed the Judge of the Court from which said cause or causes were transferred.

Sec. 4. After the effective date of this Act, the District Attorney for the Criminal District Court for Nueces, Kleberg, Kenedy, Willacy and Cameron Counties shall serve the 28th Judicial District Court as designated by this Act, and shall thenceforth be known as the District Attorney for the 28th Judicial District of Texas, and at the next general election such office shall be filled by the election of a District Attorney for the 28th Judicial District of Texas for the Counties of Nueces, Kleberg and Kenedy, said office to be voted upon by the qualified voters of said three named Counties only.

The County Attorneys of Willacy and Cameron Counties shall, respectively, from and after the effective date of this Act, represent the State of Texas in all matters now handled by the above mentioned District Attorney for the above mentioned Criminal District Court within said respective Counties.

Sec. 5. Each term of Court within the 107th Judicial District shall begin on the first Mondays of January and July of each year, respectively, and may continue until the beginning of the succeeding term. The Judge of the 107th Judicial District Court, at his discretion, may hold as many sessions of Court in any term of the Court in either County in his district as may be deemed by him proper and expedient for the disposition of the Court's business, and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the Judge thereof.

Sec. 6. Nothing contained in this Act shall affect the present terms of the 28th and the 103rd Judicial District Courts but said terms shall continue as now provided by law for said respective Courts.

Sec. 7. In any County which is situated within two (2) Judicial Districts and in which the County Attorney of such County is performing the duties of a District Attorney, as well as those of a County Attorney, and in which Counties the office of District Attorney, or the of-

office of Criminal District Attorney has been abolished since the enactment of Section 13, Article 3912—e, Revised Civil Statutes of Texas, Acts 1939, Forty-sixth Legislature, Special Laws, page 608, section 1, the Commissioners Court of any such County is hereby authorized, at their discretion, to pay to such County Attorney so performing such duties of District Attorney, as compensation, over and above the salary which such County Attorney draws as County Attorney, a sum not to exceed the amount of Twelve Hundred Dollars (\$1200) per annum, such additional compensation to be paid in twelve (12) equal monthly instalments. Acts 1945, 49th Leg., p. 472, ch. 300, § 1.

Emergency. Effective Jan. 1, 1947.

Sections 2-4 of the Act of 1945, read as follows:

"Sec. 2. This Act shall take effect and be in operation on and after the first day of January, A. D. 1947.

"Sec. 3. If any paragraph, sentence, clause, section, or provision of this Act

shall be held to be invalid or unconstitutional, the validity of other portions of this Act shall not be affected thereby, but shall remain in force and effect.

"Sec. 4. On the effective date of this Act, all laws and parts of laws in conflict herewith, are hereby repealed, in so far as such conflict is concerned."

112. Pecos, Upton, Kimble, Sutton and Crockett.

The One Hundred and Twelfth Judicial District of Texas shall be composed of the following Counties, to wit: Pecos, Upton, Kimble, Sutton and Crockett, and the terms of Court shall be held therein each year as follows:

In Pecos County: On the first Monday in January, May and November and second Monday in July of each year.

In Upton County: On the first Monday in February and the second Monday in June of each year.

In Kimble County: On the fourth Monday in February and the second Monday in August of each year.

In Sutton County: On the third Monday in March and the first Monday in September of each year.

In Crockett County: On the first Monday in April and the third Monday in September of each year.

Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term thereof.

The Judge of each Court, in his discretion, may hold as many sessions in any term of Court as is deemed by him proper and expedient for the dispatch of business. As amended Acts 1945, 49th Leg., p. 10, c. 6, § 1.

* * * * *

Emergency. Effective Feb. 20, 1945.

Sections 2 and 3 of the amendatory Act of 1945 read as follows:

"Sec. 2. All processes issued out of and all bonds and recognizances entered into, and all grand and petit jurors drawn and selected before this Act takes effect, shall be valid and returnable to the next succeeding term of the District Court in and for the several Counties, as herein fixed, as though issued and served for such

terms, and returnable to and drawn for the same.

"Sec. 3. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said District shall conform to the requirements of this Act."

TITLE 11A—ASSIGNMENTS, IN GENERAL [NEW]

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

Section 1. Definitions: In this Act, unless the context otherwise requires:

(1) "Account" or "account receivable" means an existing or future right to the payment of money presently due, or to become due (a) under an existing contract: (b) which right to payment is not secured by a chattel mortgage, a conditional sale contract, or other instrument which may be filed for record in a public office of this or another state or of the United States and which instrument was given at or before the time the account was assigned and reserves the title to, or creates a lien upon, goods, the sale of which gave rise to the account; and (c) which right to payment is not represented by (A) a judgment, (B) a negotiable instrument, or (C) a non-negotiable instrument which so represents the obligation that an assignee who takes possession of it takes rights superior to those of a prior assignee of the obligation who did not take possession of the instrument; and (d) the assignment of which right is not subject to special statutory provisions of the state or of the Federal Government relative to the rights of creditors of the assignor or to successive assignees from the assignor.

(2) "Assignee", "assignment", "assignor", and "debtor" are limited respectively to an assignee, assignment, assignor of, and debtor on an account receivable.

(3) "Contract" includes express contracts, written or oral, and implied contracts, such as an obligation to pay for goods received or services rendered without an express contract.

(4) "Assignment" means any transfer of an account, other than by operation of law, including but not limited to a transfer as security, the creation by agreement of a lien on an account, and sales of accounts.

Sec. 2. The assignment of any account or accounts may be protected by the execution and delivery by the assignor to the assignee of an instrument or instruments in writing, assigning such account or accounts and describing the account or accounts assigned with sufficient particularity to identify the same, and by the filing for record the "Notice of Assignment" as hereinafter provided for.

Sec. 3. Whenever any person, firm or corporation assigns within this state by instrument in writing all or any one or more of his accounts receivable, there may be filed for record a "Notice of Assignment", signed by the assignor and acknowledged or witnessed as provided in the case of chattel mortgages which shall contain:

(a) The name and mailing address and the residence, principal office, or place of business, within this state of both the assignor and assignee; or if either the assignor or the assignee has no mailing address within the state, the mailing address outside the state.

(b) A statement that the assignor has assigned or intends to assign one or more accounts to the named assignee.

(c) A statement of the period of time for which such notice is to be effective.

Sec. 4. The place for filing the notice of assignment shall be the office of the County Clerk of the County of the assignor's residence within this state; or if not a resident of this state, the office of the County Clerk of the County wherein the principal office of the assignor is maintained; or, if neither a resident of this state nor maintaining a principal office within this state, in the office of the County Clerk of Travis County, Tex-

as. Such notice of assignment shall be effective for a definite period of time to be stated therein, not to exceed a period of three years. The County Clerk shall on request, for a charge of Fifty (50¢) Cents, issue a certificate with respect to any specified person either stating that the specified person is not a filing assignor, or if the specified person is a filing assignor, stating the contents of the filed notice of assignment.

Sec. 5. Upon the filing for record of any notice of assignment the County Clerk shall receive, file, and index the same, as in the case of chattel mortgages, and shall preserve the same among the chattel mortgages in his office for each notice of assignment which shall be filed, and shall receive a fee of Twenty-five (25¢) Cents. Satisfaction, cancellation or release, signed by the assignee, of any such notice of assignment recorded in the office of the County Clerk may be entered on the record book in such office in which the notice of assignment is entered, as in the case of chattel mortgages, and for each such entry the County Clerk shall receive a fee of Twenty-five (25¢) Cents.

Sec. 6. Whenever any person, firm or corporation shall in good faith take a protected assignment of any account or accounts, which shall not have been satisfied, cancelled or released by the assignor, all creditors of, and all subsequent assignees, purchasers and transferees of or from the assignor shall be conclusively deemed to have received notice of such assignment, dating from the time of the filing for record of the notice of assignment hereinabove provided; and after such filing for record, no purchaser from the assignor, no creditor of any kind of the assignor, and no prior or subsequent assignee or transferee of the assignor, holding an assignment not protected, or holding an assignment under a notice of assignment subsequently filed for record, shall in any event have, or be deemed to have acquired, any right in the account or accounts so assigned or in the proceeds thereof, or in any obligation substituted therefor, superior to the rights therein of the assignee named in such prior protected assignment.

Sec. 7. Whenever any person, firm or corporation shall take a protected assignment of any account or accounts receivable, and the debtor thereafter acting without written notice of such assignment shall in good faith pay all or part of such account to the assignor or to any creditor, purchaser, assignee, or transferee, not holding a prior protected assignment, such payment shall be an acquittance to the debtor to the extent thereof, and such assignor, creditor, purchaser, assignee or transferee receiving such payment shall be a trustee of any sums so paid and shall be accountable and liable to the holder of the protected assignment therefor.

Sec. 8. The right or lien of the assignee upon any balance remaining owing on any assigned account receivable shall not be invalidated, irrespective of whether the assignee shall have consented to or acquiesced in the acts of the assignor, if merchandise sold, or any part thereof, is returned to or recovered by the assignor from the person owing the account receivable and he thereafter deals with it as his own property, or if the assignor grants credits, allowances or adjustments to the person owing an account receivable. Acts 1945, 49th Leg., p. 463, ch. 293.

Emergency. Effective June 1, 1945.

Title of Act:

An Act relating to protected assignments of accounts receivable; providing a form of public notice for such assignments; providing for the filing of notices relating thereto; providing for the filing, cancellation, satisfaction, and release of such notice, and providing the duties and fees

of the County Clerk in connection therewith; providing that the recording of such notices shall constitute constructive notice; providing for protection of the rights of debtors, and of assignees; defining terms used therein, and declaring an emergency. Acts 1945, 49th Leg., p. 463, ch. 293.

TITLE 15—ATTORNEYS—DISTRICT AND COUNTY

2. COUNTY ATTORNEYS

Art.

331b—3. Assistant county attorneys in counties of 60,000 to 100,000 having no district attorney [New].

2. COUNTY ATTORNEYS

Art. 331b—3. Assistant county attorneys in counties of 60,001 to 100,000 having no district attorney

Section 1. In all counties of this State having a population of sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, the county attorneys in such counties which do not have a district attorney, and where the county attorney performs the duties of county attorney and district attorney, the county attorney in such counties shall apply to the county Commissioners Court of his county for authority to appoint such assistant county attorneys as he may require in the performance of his duties as such county attorney, stating by sworn application the number needed, the position to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expense of said office; and said Court shall make its order authorizing the appointment of such assistant county attorneys and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said Court may be proper. The compensation which may be allowed to the assistant county attorneys for their services shall be a reasonable one, not to exceed Thirty-six Hundred Dollars (\$3600) per annum, to be paid out of the officer's salary fund of such counties.

Sec. 2. The provisions of this Act are cumulative of Article 3902 of the Revised Civil Statutes of Texas of 1925, as amended. And in no wise shall be considered as a limitation on the other powers and authority of the Commissioners Court therein prescribed. Acts 1945, 49th Leg., p. 253, ch. 187.

Emergency. Effective May 9, 1945.

Title of Act:

An Act providing for the appointment of assistant county attorneys in counties having a population of sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants according to the last preceding Federal Census in counties where there is not a district attorney and in counties where the county attorney

performs the duties of county attorney and district attorney; providing for the method of their appointment; providing for their compensation; providing for certain reports and applications; providing the provisions of this Act are cumulative of Article 3902, Revised Civil Statutes of Texas, 1925, and declaring an emergency. Acts 1945, 49th Leg., p. 253, ch. 187.

TITLE 16—BANKS AND BANKING

CHAPTER V—LOANS AND INVESTMENTS

Art. 342—504. Real Estate Loans—Limitations

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, as amended from time to time.

2. The total "net balance" owing upon the indebtedness secured by such lien (a) does not exceed fifty per cent (50%) of the appraised value of such real estate; or (b) does not exceed sixty per cent (60%) of the appraised value of such real estate and such loan or obligation provides for uniform monthly, quarterly, semi-annual, 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 sixty-six and two-thirds per cent (66 $\frac{2}{3}$ %) 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 loan 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; (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. The above limitations shall not apply to a loan or obligation insured by the Federal Housing Administration, or to security taken to prevent loss on a loan or investment previously made in good faith. As amended Acts 1945, 49th Leg., p. 149, ch. 99, § 1.

Emergency. Effective April 25, 1945.

Loans under Serviceman's Readjustment Act of 1944, see 38 U.S.C.A. § 694 et seq.

TITLE 20—BOARD OF CONTROL

CHAPTER THREE—PURCHASING DIVISION

Art.

664—1. Surplus war materials, purchase of.
 [New].

Art. 664—1. Surplus war materials, purchase of

The Board of Control of the State of Texas is hereby authorized and directed to purchase for any county or any other political subdivision of this State such surplus war materials or surplus goods, merchandise, equipment or other wares from the Federal Government or its agencies as may be offered for sale by them, provided said county or other political subdivision shall request the Board of Control to make such purchase, and provided they shall deposit with the Board of Control sufficient funds to cover payment therefor. Acts 1945, 49th Leg., p. 271, ch. 199, § 1.

Emergency. Effective May 10, 1945.

Title of Act:

An Act authorizing and directing the Board of Control of the State of Texas to purchase for any county or other political subdivision of the State such surplus war materials or surplus goods, merchandise, equipment or other wares from the Federal Government or its agencies as may

be offered for sale by them, provided such county or other political subdivision requests the Board of Control to make such purchase, and provided sufficient funds are deposited with the Board of Control to cover payment therefor; and declaring an emergency. Acts 1945, 49th Leg., p. 271, ch. 199.

CHAPTER FOUR—PUBLIC BUILDINGS AND GROUNDS DIVISION

Art.

678b. Purchase and custody of old French embassy building [New].

678c. State Courts Building; State Office Building; location and construc-

tion; garage; underpass and tunnel connecting with State Capitol; purchase of additional building [New].

Art. 666b. Rental space for government agencies or departments, obtaining

Section 1. Hereafter all departments and agencies of the State Government, when rental space is needed for carrying on the essential functions of such agencies or departments of the State Government, shall submit to the State Board of Control a request therefor, giving the type, kind, and size of building needed, together with any other necessary description, and stating the purpose for which it will be used and the need therefor.

Sec. 2. The State Board of Control, upon receipt of such request, and if the money has been made available to pay the rental thereon, and if, in the discretion of the Board such space is needed, shall forthwith advertise in a newspaper, which has been regularly published and circulated in the city, or town, where such rental space is sought, for bids on such rental space, for the uses indicated and for a period of not to exceed two years. After such bids have been received by the State Board of Control at its principal office in Austin, Texas, and publicly opened, the award for such rental contract will be made to the lowest and best bidder, and upon such other terms as may be agreed upon. The terms of the contract, together with the notice of the award of the State Board of

Control will be submitted to the Attorney General of Texas, who will cause to be prepared and executed in accordance with the terms of the agreement, such contract in quadruplicate; one of which will be kept by each party thereto, one by the State Board of Control, and one by the Attorney General of Texas. The parties to such contract will be the department or agency of the government using the space as lessee and the party renting the space as lessor.

Sec. 3. Within thirty days after the effective date of this Act, all departments and agencies of the State Government at this time leasing or renting space from any person, firm, or corporation whomsoever, will cause to be prepared and delivered to the State Board of Control in Austin, Texas, a copy of any written rental or lease agreement now in force and current, or any statement of any oral understanding upon which any lease or rental public funds are being expended, if such action has not already been taken.

Sec. 4. Should any rental or lease agreement be sought by any agency or department of the State Government, involving an expenditure of less than One Hundred Dollars (\$100) per annum or any rental or lease agreement be sought involving a rental period of not exceeding four (4) months and involving a total expenditure of Two Hundred Dollars (\$200) or less, the Board of Control is authorized to waive the requirements of this Act. As amended Acts 1945, 49th Leg., p. 225, ch. 168, § 1.

The amendment Acts 1945, effective May 7, 1945, affected section 4 of this article.

Art. 678b. Purchase and custody of old French embassy building

Section 1. There is hereby appropriated all moneys now in the Texas Centennial Commission funds if and when available to apply on the purchase of the French Embassy building and all properties therein.

Sec. 2. Said property to consist of Embassy building and two and one-half (2½) acres out of the Southeast part of Outlot No. 1, in Division B, City of Austin, Texas, facing easterly on San Marcos Street, with line commencing at the intersection of San Marcos and Ninth Streets and running southerly with the West line of San Marcos Street to an alley between Seventh and Ninth Streets.

Sec. 3. Said building is hereby set aside for the uses and purposes of the Daughters of the Republic of Texas, and the said Daughters of the Republic of Texas be and the same are hereby authorized to take full charge of said building and use of the same as they may see proper. The property of the said French Embassy shall be the property of the State, and the title of said property shall remain in custody of the Board of Control. Acts 1945, 49th Leg., p. 455, ch. 286.

Emergency. Effective May 31, 1945.

Title of Act:

An Act providing for the purchase of property known as the French Embassy and consisting of two and one-half (2½) acres, known as the Old French Embassy property, and all buildings and furniture therein. Said building is hereby set aside for the uses and purposes of the Daughters of the Republic of Texas, and the said

Daughters of the Republic of Texas be and the same are hereby authorized to take full charge of said building and use of the same as they may see proper. The property of the said French Embassy shall be the property of the State, and the title of said property shall remain in custody of the Board of Control; and declaring an emergency. Acts 1945, 49th Leg., p. 455, ch. 286.

Art. 678c. State Courts Building; State Office Building; location and construction; garage; underpass and tunnel connecting with State Capitol; purchase of additional building

Section 1. That there may be constructed two (2) office buildings and a garage during the biennium ending August 31, 1947. Said build-

ings shall be located on any State owned property lying south and adjacent to the Capitol grounds as more fully described herein.

Sec. 2. That such buildings shall be constructed under the supervision of the State Board of Control with the assistance of a Legislative and Business Council, composed of a member of the House to be appointed by the Speaker, a member of the Senate, appointed by the Lieutenant-Governor, the Speaker of the House, the Attorney General, and the Lieutenant-Governor.

Sec. 3. Such buildings shall be of fireproof construction and shall be provided with modern improvements, particularly air-conditioning, proper light, heat, and ventilation, and other necessary utilities.

Sec. 4. One of said buildings shall be designed to accommodate the Supreme Court of Texas and its Commission of Appeals; the Court of Criminal Appeals of Texas and its Commission of Appeals; the State's Attorney before the Court of Criminal Appeals; the Court of Civil Appeals, Third District; the Attorney General of Texas; and such other offices as space therein will permit. This building shall be known as the "State Courts Building."

Sec. 5. The other of said buildings shall be designed and constructed for office space only, except the ground floor which shall be designed to care for tenants engaged in such businesses as will best accommodate the needs of State officers and employees; especially, the drug, cafe, and barber business. The name of this building shall be the "State Office Building."

Sec. 6. That the "State Courts Building" shall be located on the lot of land now occupied by the Walton Building. Said lot more particularly described as follows:

The west half of the north one-half ($\frac{1}{2}$) of Block 123, as shown on the Original Plot of the City of Austin.

Sec. 7. That the "State Office Building" shall be placed on the lot described as follows:

North one-half ($\frac{1}{2}$) of Block 124 as shown by the Original Plot of the City of Austin. Said one-half ($\frac{1}{2}$) block is bounded on the west by Colorado Street, on the North by Eleventh Street, on the east by Congress Avenue.

Sec. 8. That an underpass and tunnel shall be constructed between each of said new buildings and connecting with the basement of the State Capitol.

Sec. 9. That a garage shall be constructed that will accommodate not less than five hundred (500) cars, on the west end of the property upon which is located the "State Office Building." Said garage shall be so constructed that it will have an entrance on two (2) streets.

Sec. 10. None of the spaces provided for business of any kind or character, including the garage above provided for, shall ever be operated in the name of the State of Texas, but same will be rented to the highest bidder for cash, payable monthly in advance, upon such terms and conditions as may be prescribed by the State Board of Control.

Sec. 11. In addition to the purposes and intention of this bill as hereinabove set out, it is the further legislative intent and purpose that the construction provided for shall be a part of the postwar building program, to the end that employment will be made available to returning ex-servicemen and women, and it is herein specifically provided that honorably discharged men and women from the armed forces of this State and Nation will be given priority of employment in the construction of such buildings, and that the contract, or contracts, and all sub-contracts for the construction thereof, will so specifically provide.

Sec. 17. The State Board of Control is hereby authorized to negotiate as soon as possible for the purchase for the State of Texas the Tribune Building in the City of Austin, Texas, and the real estate upon which said building is located, as well as all other land and improvements pertaining thereto, or used in connection therewith for parking purposes or for any other purpose, from the owners thereof, at a cost not to exceed the estimate fixed, after due appraisal by the State Engineers, and only then upon the approval of a majority of the following: The Speaker of the House, a Member of the House to be selected by the Speaker of the House, the Lieutenant Governor, a Member of the Senate to be selected by the Lieutenant Governor, the Attorney General of Texas, and the Chairman of the Board of Control.

Sec. 18. The contract for the purchase of said real estate by the State Board of Control under the provisions of this Act shall be prepared by the Attorney General of the State of Texas upon such terms as may be legally agreed on by the parties to the sale. It shall be the duty of the State Board of Control to require of the owner of such premises the preparation and delivery of an abstract of title of any property sought to be purchased and to submit the same to the Attorney General of Texas for examination, and the contract for purchase shall be conditioned upon the merchantability of title as evidenced by a written opinion of the Attorney General, and none of the funds provided for in this Act shall be paid until such title is declared to be good and merchantable and a legal transfer made, all as approved by the Attorney General. Acts 1945, 49th Leg., p. 536, ch. 325.

Effective 90 days after June 5, 1945, date of adjournment.

Sections 12-16, 19-21 of the Act read as follows:

"Sec. 12. There is hereby appropriated for the biennium ending August 31, 1947, the sum of Fifty Thousand Dollars (\$50,000) out of the General Revenue Fund for the purpose of constructing said office buildings, garage, underpass and tunnel, and for the purpose of equipping same, and for the further purpose of defraying the legal, architectural, engineering, and inspection expenses connected therewith.

"Out of this appropriation the said Board of Control is hereby authorized and directed to employ a Registered Architect or Architectural Firm or firms (hereinafter referred to as the Architects), in private practice, on a customary fee basis for the preparation of preliminary sketches, plans and specifications, and for the supervision of the construction of said buildings.

"The Architects so selected and employed shall, in turn, employ registered Professional Engineers for the design of the structural and the mechanical phases of said buildings, said Professional Engineers to be satisfactory to the said Board of Control. The Architects shall submit all preliminary designs to said Board of Control and receive approval before beginning preparation of working plans and specifications, shall at all times consult with the Board of Control and, upon completion of said plans and specifications, secure the approval of same from the Board of Control.

"Sec. 13. In addition to the above appropriations, there is hereby appropriated

for the biennium ending August 31, 1947, the sum of Twenty-five Thousand Dollars (\$25,000) out of the General Revenue Fund of the State, or so much thereof as is necessary, to wreck and remove the old Walton Building from its present site, and to pay expenses of whatsoever kind as are necessary for such purposes.

"Sec. 14. There is appropriated out of the General Revenue Fund of the State of Texas for use during the biennium ending August 31, 1947, the sum of Ten Thousand Dollars (\$10,000) for the purpose of repairing and reconditioning the quarters now occupied by the Supreme Court of Texas, Court of Criminal Appeals of Texas, and the Third Court of Civil Appeals of Texas, for the use and convenience of Members of the Texas Legislature.

"Sec. 15. There is hereby appropriated out of the General Revenue Fund of the State of Texas the further sum of Two Thousand Dollars (\$2,000) for removing the law libraries of said Courts and of the Attorney General of Texas to the State Courts Building."

"Sec. 16. Upon completion of the office buildings herein provided for, there is hereby appropriated to the Board of Control for the fiscal year ending August 31, 1947, the additional sum of money for the payment of salaries of a maintenance crew at a sum per month for each employee not to exceed the sum paid for same or similar services in comparable service.

Year Ending
August 31, 1947

1. Four (4) elevator operators	
at \$1,500 per year	\$ 6,000.00

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

2. Eleven (11) janitors at not to exceed \$80 per month 10,560.00
3. One (1) foreman of buildings at not to exceed \$1,800 per year \$1,800.00
4. Janitor supplies, water, lights, gas, power and other miscellaneous items and contingent expense 15,000.00

"Sec. 19. There is hereby appropriated the sum of Twenty Thousand Dollars (\$20,000) out of any unappropriated monies in the State Treasury for the purpose of paying utility bills, elevator operators, porters, guards, and any other maintenance costs and salaries of whatsoever nature and kind, for the biennium beginning September 1, 1945, and ending September 1, 1947; provided that no such salary, or salaries, shall exceed the salary, or salaries now being paid for the same, or similar positions in departmental service, and further provided, that in the event the aforesaid sum is not sufficient to take care of such expenses for the ensuing bien-

nium, that an additional sum, or sums, is hereby appropriated out of the eleemosynary funds of the State of Texas in such amount as may be necessary to pay such expenses.

"Sec. 20. The Board of Control is authorized, in the event such a procedure is economically advisable, to rent space on the ground floor and in the basement for commercial business upon open bids for same.

"Sec. 21. The purchase price for the said Tribune Building, real estate and land shall be paid out of the funds appropriated and provided for in and in the manner set out in House Bill No. 818 of the Regular Session of the Forty-ninth Legislature (Laws 1945, ch. 262, p. 409) and provided further that the sum for the cost of the two office buildings as described in this Act shall be appropriated out of and provided in the manner set out in House Bill No. 818 of the Regular Session of the Forty-ninth Legislature."

CHAPTER SEVEN A—CHILD WELFARE

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

Transfer of child welfare services to Department of Public Welfare, see art. 695e.

TITLE 20A—BOARD AND DEPARTMENT OF PUBLIC WELFARE

Art.
695e. Transfer of child welfare services
from State Board of Control to

Art. Department of Public Welfare
[New].
695f. Child Welfare Service Fund [New].

Art. 695e. Transfer of child welfare services from State Board of Control to Department of Public Welfare

All of the functions and duties which were designated as being the responsibility of the State Board of Control and/or the Division of Child Welfare of the State Board of Control as expressed in Chapter 194, Page 323, Acts of the Forty-second Legislature, Regular Session, 1931, being Article 695A of Vernon's Texas Civil Statutes, including Article 606A, Sections 6 and 7, of Vernon's Texas Penal Code, and the duties and functions of the State Health Department as described in Chapter 204, Page 444, of the General and Special Laws of the Regular Session of the Forty-first Legislature, 1929, and being Article 4442A of Vernon's Texas Civil Statutes are hereby transferred to the State Department of Public Welfare, save and except where they apply to the child wards of the State of Texas who are being cared for and educated in the eleemosynary schools of the State. The expressed purpose of this Act is to correct a defective transference of duties and responsibilities which relate to children and which may be classed as child welfare services, which transference was attempted in Senate Bill No. 36, Acts of the Forty-sixth Legislature, Regular Session;¹ and all duties, responsibilities, and functions set out in these Sections of the law are expressly transferred to the Department of Public Welfare. Acts 1945, 49th Leg., p. 297, ch. 215, § 1.

¹ Article 695c.

Emergency. Effective May 16, 1945.
Section 2 of the Act of 1945 read as follows:

"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."

Title of Act:

An Act restricted to a clarification of the functions originally transferred from the State Board of Control to the State Department of Public Welfare; providing a saving clause; and declaring an emergency. Acts 1945, 49th Leg., p. 297, ch. 215.

Art. 695f. Child Welfare Service Fund

There is hereby created in the Treasury a special fund to be known as the "Child Welfare Service Fund" for the purpose of administering Child Welfare Services transferred to the State Department of Public Welfare by Senate Bill No. 36, Acts of the 46th Legislature, Regular Session, 1939, as amended and reenacted by the Public Welfare Act of 1941, House Bill No. 611, Acts of the 47th Legislature, Regular Session,¹ as same now exists or may hereafter be amended, or such services as otherwise prescribed by law. Acts 1945, 49th Leg., p. 322, ch. 236, § 1.

¹ Article 695c.

Emergency. Effective May 24, 1945.
Sections 2 to 6 of the Act of 1945 read as follows:

"Sec. 2. There is hereby allocated and transferred out of the accumulated and unappropriated balance on hand in the

'Children's Assistance Fund', mentioned in House Bill No. 8, Acts of the 47th Legislature, Regular Session, 1941, the sum of One Hundred Thousand Dollars (\$100,000.-00) for each fiscal year of the biennium beginning September 1, 1945, and ending

August 31, 1947, said amount to be provided on a basis of equal monthly installments. Said sum shall be deposited in, and credited to the 'Child Welfare Service Fund' as herein created.

"Sec. 3. The sum of One Hundred Thousand Dollars (\$100,000.00) is hereby appropriated out of the 'Child Welfare Service Fund' to the State Department of Public Welfare for Child Welfare Services for each fiscal year of the biennium beginning September 1, 1945, and ending August 31, 1947.

"Sec. 4. The above allocations and any sums otherwise appropriated shall be set aside for the purposes herein or otherwise provided, and all remaining unallocated and unappropriated balances now in the 'Children's Assistance Fund' shall be transferred from this fund to the 'General Revenue Fund.'

"Sec. 5. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed.

"Sec. 6. 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."

Title of Act:

An Act creating in the Treasury a "Child Welfare Service Fund"; providing for the transfer of the now existing accumulated balance from the "Children's Assistance Fund" to the "Child Welfare Service Fund", and appropriating same to the State Department of Public Welfare; transferring the balance on hand not otherwise allocated or appropriated from the "Children's Assistance Fund" to the "General Revenue Fund"; repealing clause; saving clause; and declaring an emergency. Acts 1945, 49th Leg., p. 322, ch. 236.

TITLE 22—BONDS—COUNTY, MUNICIPAL, ETC.

CHAPTER EIGHT—SINKING FUNDS—INVESTMENT, ETC.

Art.

842a—1. Obligations wholly or partly insured by United States or state, investment in [New].

Art. 842a—1. Obligations wholly or partly insured by United States or state, investment in

Savings and loan associations, banks, insurance companies, and other corporations or other organizations, similar or dissimilar, are hereby authorized to lend, and to buy and sell for their own account, obligations in which except as to value of property and dignity of lien thereon securing the obligation it is otherwise lawful for such investor to invest its own funds, (by direct loan or by purchase), if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States or by this State; or, if not so wholly insured or guaranteed, the difference between the entire amount of the indebtedness and that portion thereof insured or guaranteed by the United States or by this State, does not exceed the amount permissible under the law of this State, and meets the requirements thereof as to value of property and dignity of lien thereon, provided; further authorizing that any such lender may make an unsecured loan not exceeding Five Hundred Dollars (\$500), if at least one-half thereof is guaranteed pursuant to the Servicemen's Readjustment Act of 1944.¹ Acts 1945, 49th Leg., p. 315, ch. 230, § 1.

¹ 38 U.S.C.A. § 693 et seq.

Emergency. Effective May 23, 1945.

Section 2 of the Act of 1945 read as follows: "If any section, sentence or any part whatever of this Act should be held to be unconstitutional or invalid, the same shall not affect the remaining portion of this Act and it is hereby declared that the Legislature would have passed that part which is constitutional and valid."

Title of Act:

An Act authorizing savings and loan associations, banks, insurance companies, and other corporations or other organizations, similar or dissimilar, to lend and to buy and sell for their own account, obligations in which except as to value of property and dignity of lien thereon securing the obligation it is otherwise lawful for such investor to invest its own funds, (by

direct loan or by purchase), if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States or by this State; or, if not so wholly insured or guaranteed, the difference between the entire amount of the indebtedness and that portion thereof insured or guaranteed by the United States or by this State does not exceed the amount permissible under the law of this State, and meets the requirements thereof as to value of property and dignity of lien thereon, provided; further authorizing that any such lender may make an unsecured loan not exceeding Five Hundred Dollars (\$500), if at least one-half thereof is guaranteed pursuant to the Servicemen's Readjustment Act of 1944; providing a saving clause; and declaring an emergency. Acts 1945, 49th Leg., p. 315, ch. 230.

TITLE 24—BUILDING AND LOAN ASSOCIATIONS

Art.

881a—37a. Loans pursuant to Servicemen's
Readjustment Act [New].

Art. 881a—29. Articles of association

Any number of persons, not less than five (5), who are citizens of this state, desiring to incorporate a building and loan association may, by complying with the provisions of this Act¹ and entering into articles of association, become a corporate body. Such articles of association shall be signed by the persons associating and acknowledged before some person authorized by the laws of this state to take acknowledgments to deeds, and shall set forth:

1. The name assumed by the association, which shall not be the name assumed by any other association incorporated under this law, nor so similar as to be liable to mislead. The name of the associations hereafter chartered shall contain the words "building and loan association", or "savings and loan association", or "savings association", or "savings institution", and associations heretofore chartered may by amendment to their charter change the name of their association so as to provide for such terminology. As amended Acts 1945, 49th Leg., p. 95, ch. 66, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 881a—37a. Loans pursuant to Servicemen's Readjustment Act

Any building and loan association organized under the laws of this state may make loans pursuant to the provisions of Sections 500, 501, 504 and 505 of Chapter V, Title III of the Act of Congress, entitled "Servicemen's Readjustment Act of 1944"¹, approved by the President on June 22, 1944, and all amendments thereto, as well as any and all regulations that have been heretofore promulgated and all regulations that may be hereafter promulgated under the provisions of said sections of said Act of Congress. Such building and loan associations are authorized and empowered to contract for, and obtain such insurance or guaranty of the payment of such loans, advancements or investments as may be provided for in such sections of such Act or any amendments thereto, or under any regulation promulgated thereunder. Such building and loan associations may invest any of their funds, in such loans, credits or obligations without limitation as to amount loaned to any one borrower, or period of maturity, under the provisions of Sections 500, 501, 504 and 505 of Chapter V, Title III of said Act of Congress, and under all amendments thereto, as well as under any and all regulations that have been heretofore promulgated or that may be hereafter promulgated under the provisions of said Sections of said Act of Congress. Acts 1929, 41st Leg., 2nd C.S. p. 100, ch. 61, § 38a, added Acts 1945, 49th Leg., p. 28, c. 18, § 1.

¹ 38 U.S.C.A. §§ 693-697e.

Emergency. Effective March 5, 1945.

TITLE 25—CARRIERS

6. REGULATION OF MOTOR BUS TRANSPORTATION

Art. 911b. Motor carriers and regulation by Railroad Commission—
Definitions

Sec. 13. Before any permit or certificate of public convenience and necessity may be issued to any motor carrier and before any motor carrier may lawfully operate under such permit or certificate as the case may be, such motor carrier shall file with the Commission bonds and/or insurance policies issued by some insurance company including mutuals and reciprocals or bonding company authorized by law to transact business in Texas in an amount to be fixed by the Commission under such rules and regulations as it may prescribe, which bonds and insurance policies shall provide that the obligor therein will pay to the extent of the face amount of such insurance policies and bonds all judgments which may be recovered against the motor carrier so filing said insurance policies and bonds, based on claims for loss or damages from personal injury or loss of, or injury to property occurring during the term of said bonds and policies and arising out of the actual operation of such motor carrier; and such bonds and policies shall also provide for successive recoveries to the complete exhaustion of the face amount thereof and that such judgments will be paid by the obligor in said bonds and insurance policies irrespective of the solvency or insolvency of the motor carrier; provided, however, such bonds and policies shall not cover personal injuries sustained by the servants, agents or employees of such motor carrier. Provided further, that in the event the insured shall abandon his permit or certificate and leave the state, a claimant, asserting a claim within the provisions of said bonds or policies, may file suit against the sureties executing such bond or the company issuing such policies in a court of competent jurisdiction without the necessity of making the insured a party to said suit. Provided, however, that the Commission shall not require insurance covering loss of or damage to cargo in amount excessive for the class of service to be rendered by any motor carrier. Each such motor carrier shall, on or before the date of the expiration of the term of any policy or bond so filed by him, file a renewal thereof, or new bonds or policies containing the same terms and obligations of the preceding bonds and policies, and shall each year thereafter on or before the expiration date of the existing bonds and policies, file such renewal policies and bonds so as to provide continuous and unbroken protection to the public having legal claims against such motor carrier; and in the event such renewal bonds and policies are not so filed, the Commission, after notice to the motor carrier, and hearing, may, within its discretion if it shall find and determine that the ends of justice will be better subserved thereby, cancel such permit or certificate for failure to furnish and provide such bonds or insurance as herein required. The Commission may accept in lieu of the filing of the original policies of insurance, a certificate of insurance, in such form as may be prescribed by the Commission, which certificate, when filed with the Commission, will bind the obligor thereunder and satisfy the requirements of this section as if the original policies of insurance had been filed.

Each motor carrier shall also protect his employees by taking out workmen's compensation insurance, either as provided by the Workmen's Compensation Laws of the State of Texas, or in a reliable insur-

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

ance company authorized to write workmen's compensation insurance approved by the Commission. As amended Acts 1945, 49th Leg., p. 637, ch. 360, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

TITLE 26—CEMETERIES

Art.		Art.	
912a—1.	Definitions [New].	912a—13.	Inalienable by interment; rights of co-owners [New].
912a—2.	Operation of Cemeteries Unlawful Unless Provisions Complied With [New].	912a—14.	Rules and regulations [New].
912a—3.	Payment, Receipt, and Disbursement of Filing Fees [New].	912a—15.	Establishment of perpetual care [New].
912a—4.	Powers and Duties of Enforcement Officers [New].	912a—16.	Requirements of perpetual care cemeteries [New].
912a—5.	Authority to Corporations [New].	912a—17.	Investment of perpetual care funds [New].
912a—6.	Rights of lot owners in cemeteries operated by nonprofit corporations [New].	912a—18.	Special care [New].
912a—7.	Meeting to organize nonprofit cemetery corporations [New].	912a—19.	Cemeteries placed in receivership [New].
912a—8.	No crematory without provision for completion of permanent disposition [New].	912a—20.	Duty of interring and right to control disposition of remains [New].
912a—9.	Acquisition of property [New].	912a—21.	Records of interments [New].
912a—10.	Dedication [New].	912a—22.	Removals [New].
912a—11.	Dedication supreme until removed by Court [New].	912a—23.	May contract pecuniary indebtedness but all liens subordinate to dedication [New].
912a—12.	Sale of property for interment purposes and property rights [New].	912a—24.	Location of cemetery [New].
		912a—25.	Abatement of nuisances [New].
		912a—26.	Police power to sexton [New].
		912a—27.	Constitutionality [New].

Art. 912a—1. Definitions

Words used in this Act in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; "writing" includes "printing" and "typewriting"; "oath" includes "affirmation." When used in this Act,¹ the following terms shall, unless the context otherwise indicates, have the following respective meanings:

The term "cemetery", within the meaning of this title, is hereby defined as a place dedicated to and used and intended to be used for the permanent interment of the human dead. It may be either a burial park, for earth interments; a mausoleum for vault or crypt interments, a crematory, or crematory and columbarium for cinerary interments, or a combination of one or more thereof.

The term "perpetual care cemetery" shall mean a cemetery for the benefit of which a perpetual care fund shall have been established in accordance with the provisions of this Act.

The term "nonperpetual care cemetery" shall mean a cemetery for the benefit of which no perpetual care fund has been established in accordance with the provisions of this Act.

The term "perpetual care" shall mean to keep the sod in repair, to keep all places where interments have been made in proper order, and to care for trees and shrubs, providing for the administration of perpetual care funds in instances wherein those administering such funds fail or refuse to act.

"Burial Park" means a tract of land which has been dedicated to the purposes of and used, and intended to be used, for the interment of the human dead in graves.

"Grave" means a space of ground in a burial park intended to be used for the permanent interment in the ground of the remains of a deceased person.

"Mausoleum" means a structure or building of most durable and lasting fireproof construction used, or intended to be used, for the permanent interment in crypts and vaults therein of the remains of deceased persons.

"Crypt" or "Vault" as herein used means the chamber in a mausoleum of sufficient size to inter the uncremated remains of a deceased person.

"Columbarium" means a structure or room or other space in a building or structure of most durable and lasting fireproof construction or a plot of earth, containing niches, used, or intended to be used, to contain cremated human remains.

"Crematory" means a building or structure containing one or more furnaces used, or intended to be used, for the reduction of bodies of deceased persons for cremated remains.

"Crematory and columbarium" means a building or structure of most durable and lasting fireproof construction containing both a crematory and columbarium, used, or intended to be used, for the permanent interment therein by inurnment of the remains of deceased persons.

"Niche" is a recess in a columbarium, used, or intended to be used, for the permanent interment of the cremated remains of one or more deceased persons.

"Lot" or "plot" or "burial space" means space in a cemetery owned by one or more individuals, an association, or fraternal or other organization and used, or intended to be used, for the permanent interment therein of the remains of one or more deceased persons. Such terms include and shall apply with like effect to one, or more than one, adjoining grave; one, or more than one, adjoining crypts or vaults; or one, or more than one, adjoining niches.

"Temporary receiving vault" as herein used means a vault in a structure of most durable and lasting construction used and intended to be used for the temporary deposit therein for a reasonable time only of the remains of a deceased person.

"Interment" means the permanent disposition of the remains of a deceased person by cremation, inurnment, entombment or burial.

"Cremation" as herein used means the interment of a body of a deceased person by reduction to cremated remains in a crematory and the deposit of the cremated remains in a grave, vault, crypt, or niche.

"Inurnment" means placing the cremated remains in an urn and permanently depositing the same in a niche.

"Entombment" means the permanent interment of the remains of a deceased person in a crypt or vault.

"Remains" means the body of a deceased person.

"Cremated remains" means remains of a deceased person after incineration in a crematory.

"Cemetery business," "cemetery businesses" and "cemetery purposes" are herein used interchangeably and shall mean any and all business and purposes requisite or necessary for or incident to establishing, maintaining, managing, operating, improving, and conducting a cemetery and the interring of the human dead, and the care, preservation and embellishment of cemetery property.

The terms "cemetery association" and "association" are herein used interchangeably and shall mean any corporation now or hereafter organized, or any association not operated for a profit, which is or shall be authorized by its articles to conduct any one or more or all of the businesses of a cemetery.

"Directors" as herein used, means the board of directors, board of trustees, or other governing body of the cemetery association.

The term "plot owner," "owner," or "lot proprietor" as used herein means any person in whose name a burial plot stands, as owner of the

exclusive right of sepulture therein, in the office of the association, or who holds from such association a conveyance of the exclusive right of sepulture, or a certificate of ownership of the exclusive right of sepulture; in a particular lot, plot, or space. Acts 1945, 49th Leg., p. 559, ch. 340, § 1.

1 Articles 912a—1 to 912a—27, P.C., art. 705b—1.

Effective 90 days after June 5, 1945, date of adjournment.

Section 27 of the Act of 1945 being a penal provision is published as P.C. art. 705b—1.

Section 29 repealed articles 912—930a, 930b—931b, P.C. arts. 705a, 715, and all conflicting laws and parts of laws.

City or town as trustee, see art. 969c.

Title of Act:

An Act defining terms; providing for the filing of annual statements of cemetery perpetual care funds by perpetual care cemeteries, providing for the payment of filing fees to accompany such statements; providing for the receipt and disbursement of funds derived from filing fees; providing the powers and duties of enforcement officers; providing for the organization of cemetery corporations, whether nonprofit corporations organized by cemetery lot owners, or private corporations organized for profit; providing that lot owners shall participate as share holders in nonprofit cemetery corporations; providing the method of organizing nonprofit cemetery corporations; regulating crematories; providing for the acquisition of property and the dedication thereof and the supremacy of such dedication until removed in the manner provided herein; providing for the sale of property for interment purposes, without the requirement of any license; providing for property rights therein, and

for the inalienability thereof, and for a representative for a plot owned by two (2) or more persons; providing for the establishment of rules and regulations by cemetery associations; providing for the establishment of perpetual care funds; establishing regulations governing perpetual and nonperpetual care cemeteries; establishing regulations for the investment of perpetual care funds; providing for the administration of perpetual care funds in instances wherein those administering such funds fail or refuse to act; providing for special care; establishing regulations for the administration of the assets of cemeteries placed in receivership; placing the duty of interring the dead; requiring the keeping of records of interment; providing for the removal of bodies; authorizing cemeteries to contract pecuniary indebtedness; regulating the location of cemeteries; providing for the abatement of nuisances; investing sextons and superintendents with certain police powers; providing penalties for the violations of the provisions of this Act; providing for the severability of the provisions hereof and that if any portion of this Act be held invalid it shall not affect the validity of the remainder thereof; repealing laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1945, 49th Leg., p. 559, ch. 340.

Art. 912a—2. Operation of cemeteries unlawful unless provisions complied with

The operation of any perpetual care cemetery within this State shall hereafter be unlawful unless such cemetery shall comply with all applicable provisions of this Act.¹ The operation of any cemetery as a perpetual care, permanent maintenance, or free care cemetery shall hereafter be unlawful unless such cemetery shall have created and shall maintain a perpetual care fund in accordance with the provisions of this Act.

Each perpetual care cemetery as defined in this Act shall file in its office, and as well in the office of the Secretary of State, a statement in duplicate which shall contain the following information:

- (1) Amount of principal of the perpetual care funds.
- (2) Total amount invested in bonds and other securities, the total amount of cash on hand not invested, and such other items which shall actually show the financial condition of the trust.
- (3) Number of square feet of grave space, and number of crypts, and number of niches disposed of under perpetual care, prior to and subsequent to March 15, 1934, each separately set forth.
- (4) Number of square feet of grave space, and number of crypts, and number of niches sold or disposed of subsequent to March 15, 1934,

for which the minimum amounts for perpetual care as provided by this Act have not been paid into the perpetual care fund.

All of the information appearing on said statements shall be verified by the President and Secretary, or two principal officers of the cemetery corporation. All the information appearing on said statements shall be revised and so posted and filed annually, on or before March 1 of each year.

Within thirty (30) days after the filing of the aforesaid statement in the office of the Secretary of State, a true copy thereof shall be published in at least one newspaper of general circulation in the county in which said cemetery is located.

Upon the failure of any perpetual care cemetery to file with the Secretary of State on or before March 1 of each year the statement of its perpetual care funds as required hereby, or to pay the filing fee required by this Act, its corporate charter shall be forfeited without judicial ascertainment by the Secretary of State in the same manner as for failure to pay franchise taxes.

It is provided, however, that the provisions of this Article shall not apply to any family, fraternal or community cemetery, or any association of cemetery lot owners not operated for profit, or any religious corporation, church, religious society, or denomination, or corporation solely administering the temporalities of any religious denomination, society or church, now existing or hereafter organized. Acts 1945, 49th Leg., p. 559, ch. 340, § 2.

¹ Articles 912a—1 to 912a—27; P.C., art. 705b—1.

Art. 912a—3. Payment, receipt, and disbursement of filing fees

At the time of the filing of the statement in duplicate 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 Secretary of State each year a filing fee of Ten Dollars (\$10); and each cemetery filing same which serves any 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 Secretary of State each year a filing fee of Twenty-five Dollars (\$25). The Secretary of State shall receive and account for all such filing fees and shall pay the same at the end of the month in which received to the State Treasurer who shall keep such moneys in a separate fund to be known as the "Cemetery Perpetual Care Enforcement Fund." Such fund shall be paid out only on warrant of the State Comptroller or the State Treasurer upon itemized vouchers approved by the Banking Commissioner of Texas. All moneys in the "Cemetery Perpetual Care Enforcement Fund" are hereby specifically appropriated for the use of the Banking Commissioner of Texas 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. The Banking Commissioner of Texas may make expenditures from said fund for any purpose which in his opinion is reasonably necessary for the proper enforcement of the laws relating to the operation of perpetual care cemeteries and the creation, investment and expenditure of cemetery perpetual care funds, and for investigations either on his 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. Acts 1945, 49th Leg., p. 559, ch. 340, § 3.

Art. 912a—4. Powers and duties of enforcement officers

It shall be the duty of the Secretary of State to deliver to the Banking Commissioner of Texas annually on or before March 5 of each year the duplicate of each cemetery perpetual care fund statement filed in the office of the Secretary of State on or before March 1 of each year, together with a current list of all corporations chartered under the laws of the State of Texas for the purpose of operating perpetual care cemeteries. The Banking Commissioner shall on or before April 15 of each year examine each such statement and shall on or before May 1 of each year certify to the Secretary of State that he has made such examination, certifying whether such statement complies with the requirements of this Act,¹ which certificate the Secretary of State shall immediately attach to the original of such statement on file in his office.

The Banking Commissioner of Texas shall have authority to require as often as he deems necessary that the custodian of any cemetery perpetual care fund make under oath a detailed report of the condition of said fund, setting forth a detailed description of the assets of said fund, a description of the securities held by said fund, a description of any property upon which any such security constitutes a lien, the cost of acquisition of any such security, the market value of any security at the time of its acquisition, the current market value thereof, the status thereof with reference to default, that the same are not in any way encumbered by debt, that none of the assets of said cemetery perpetual care fund constitute loans to the cemetery for which the funds were established, or to any officer or director thereof and any other information he deems pertinent. When the Banking Commissioner of Texas finds that a cemetery perpetual care fund does not conform to the requirements of law, or when the custodian of said fund fails to make within thirty (30) days after request a report to the Banking Commissioner of Texas of the condition of said fund, the Banking Commissioner of Texas shall notify the custodian of the cemetery perpetual care fund, the cemetery for the benefit of which said fund is established, and the Attorney General of Texas thereof, and it shall be the duty of the Attorney General of Texas to institute, within ninety (90) days after the receipt of such notice, unless he shall prior to that time be notified by the Banking Commissioner of Texas that such failure to conform to the requirements of law or to report has been corrected, suit or quo warranto proceedings in the district Court of any county of this State in which such cemetery is operated, for the forfeiture of the charter of the cemetery corporation involved and for the dissolution of its corporate existence; and for such purposes venue is hereby conferred upon the district Courts of this State. Acts 1945, 49th Leg., p. 559, ch. 340, § 4.

¹ Articles 912a—1 to 912a—27; P.C., art. 705b—1.

Art. 912a—5. Authority to corporations

Corporations may be formed for the purpose of establishing, maintaining, managing, improving, and/or operating cemeteries and conducting any one or more or all of the businesses of a cemetery, including the selling of lots or parts of lots for burial purposes. Such corporations shall be formed either as nonprofit corporations organized by cemetery lot owners, or as private corporations to be operated for profit, but not as both. The charter of each such corporation shall specifically state whether such corporation is to be a nonprofit corporation organized by cemetery lot owners, 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 nonperpetual care cemetery. 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 purpose; provided, however, that the provisions of this article 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. Acts 1945, 49th Leg., p. 559, ch. 340, § 5.

Art. 912a—6. Rights of lot owners in cemeteries operated by nonprofit corporations

All owners of lots purchased of any nonprofit cemetery corporation shall become members thereof and be entitled to vote in the election of its officers and upon any other matters to the same extent as stockholders in other corporations. Each owner of a lot or lots embraced in any cemetery operated by a nonprofit cemetery corporation shall be a shareholder in any corporation to which the land may belong and shall be entitled to all rights and privileges of a shareholder, whether the title to the lot or lots was acquired from the corporation or was owned before its organization. Nonprofit cemetery corporations organized by cemetery lot owners shall have the power to divide the land of the cemetery into lots and subdivisions for cemetery purposes and to tax the property for the purpose of its general improvement and upkeep. Acts 1945, 49th Leg., p. 559, ch. 340, § 6.

Art. 912a—7. Meeting to organize nonprofit cemetery corporations

When it is desired to create a nonprofit corporation organized by cemetery lot owners to receive title to lands theretofore dedicated to cemetery purposes, notice of the time and place of meeting shall be published in a newspaper in the county, if there be one, for thirty (30) days prior thereto; and written notices shall be posted at and upon such cemetery for thirty (30) days prior to the time fixed for said meeting. When the lot owners uniting in the formation of said nonprofit corporation shall assemble, the majority of those present and voting shall decide on the question of incorporation, and the conveyance of the land to such nonprofit corporation. Such meeting shall select the board of directors to be named in the charter, which must consist of cemetery lot owners alone. Acts 1945, 49th Leg., p. 559, ch. 340, § 7.

Art. 912a—8. No crematory without provision for completion of permanent disposition

No crematory shall be constructed, established, or maintained except within a burial park, nor unless there be in connection therewith in the same fireproof building or structure or in a separate fireproof building within the same cemetery or burial park within which the same is situated or in said cemetery, either a columbarium amply equipped for the permanent deposit therein of cremated remains of the bodies cremated thereat, or plot of ground or a mausoleum wherein the cremated remains may be placed in completion of the permanent interment thereof, and all cremated remains not removed for permanent deposit elsewhere shall

be permanently interred in either a grave, crypt, or niche within thirty (30) days after the date of such cremation. Acts 1945, 49th Leg., p. 559, ch. 340, § 8.

Art. 912a—9. Acquisition of property

Cemetery associations, whether incorporated or unincorporated, may take by purchase, donation or devise, property, consisting of lands, mausoleums, crematories and columbariums, and/or other property within which the permanent interment of the dead shall be authorized by law. Such cemetery association may execute a declaration acknowledged by the president and secretary or other authorized officer or officers, so as to entitle it to be recorded, describing said property and declaring its intention to use said property or any part thereof for interment purposes, which declaration it may file for record in the office of the County Clerk of the county wherein the property is situated, and from the date of such filing the same shall be constructive notice of the use for which such property is intended. Such property may also be acquired by condemnation proceedings and the acquisition of such property is hereby declared to be for a public purpose. Acts 1945, 49th Leg., p. 559, ch. 340, § 9.

Art. 912a—10. Dedication

Every cemetery association, from time to time as its property may be acquired for interment purposes, shall:

(a) In case of land, survey and subdivide such land into sections, blocks, lots, avenues, walks and/or other subdivisions; make a good and substantial map or plat thereof showing said sections, lots, avenues, walks and/or other subdivisions, with descriptive names or numbers; and/or

(b) In case of a mausoleum and/or crematory and columbarium, make a good and substantial map or plat thereof on which shall be delineated the sections, hall, rooms, corridors, elevators and/or other divisions thereof with their descriptive names and numbers; and shall file such map or plat in the office of the County Clerk of the county in which such property or some part thereof is situated, and shall also file for record in such County Clerk's office a written certificate or declaration of dedication of the property delineated, on said plat or map, dedicating the same exclusively to cemetery purposes. Such certificate or declaration shall be in such form as the directors or officers may prescribe, and shall be subscribed by the president or vice president and the secretary of the association, or such other person or persons as the board of directors may authorize, and acknowledge so as to entitle it to be recorded; and upon the filing of said plat and the filing of said certificate for record, the dedication of said property shall be complete for all the purposes of this Act,¹ and thereafter such property shall be held, occupied and used exclusively for a cemetery and for cemetery purposes. Provided, however, that when reservation is made therefor in the certificate or declaration of dedication, any part or subdivision of the property so mapped and platted may, by order of the directors, be resurveyed and altered in shape and size and an amended map or plat thereof filed, so long as such change does not disturb the remains of any deceased person interred therein. Such filed map and recorded declaration shall constitute and be constructive notice to all persons of the dedication of such property to interment purposes.

It shall be the duty of the County Clerk of the county in which such map or plat is filed to number and file such map or plat and to index the same in the general map index, giving reference to date of filing and

number so that the same may be easily found, for which service the recorder shall receive a fee of One Dollar (\$1).

It shall also be the duty of the County Clerk of the county in which such declaration of dedication is filed to record the same in the deed records of said county and index the same in the general index for which service the recorder shall receive a fee of One Dollar (\$1). Acts 1945, 49th Leg., p. 559, ch. 340, § 10.

¹ Articles 912a—1 to 912a—27; P.C., art. 705b—1.

Art. 912a—11. Dedication supreme until removed by Court

After such property is so dedicated to cemetery purposes, neither the dedication nor the title to the exclusive right of sepulture of a plot owner, shall ever be affected by the dissolution of the association, or by nonuser on its part, or by alienations of the property, or by any encumbrances thereon, or by forced sale under execution or otherwise, and such dedication shall not be deemed or held invalid as violating any existing laws against perpetuities or the suspension of the power of alienation of title to or use of property, but such dedication is hereby expressly permitted and shall be deemed to be in respect for the dead, a provision for the disposition of the bodies of deceased persons, and a duty to, and for the benefit of, the general public; and said property shall be held and used exclusively for cemetery purposes, unless and until the dedication shall be removed by an order and decree of the district Court of the county in which the same is situated, in a proceeding brought therefor by the governing body of the city, if said cemetery is within, or within five (5) miles from, the city limits of any city of more than twenty-five thousand (25,000) inhabitants according to the last preceding Federal census, or by the district attorney, if said cemetery is not within, or within five (5) miles of, the city limits of a city of more than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal census, or by the owner of property so situated that its value is affected by said cemetery, upon notice and proof satisfactory to the Court that all bodies have been removed therefrom, or that no interments were made therein, and that the same is no longer used or required for interment purposes; or until the maintenance of said cemetery is enjoined or abated as a nuisance as hereinafter provided for. After such dedication and so long as said property shall remain dedicated to cemetery purposes, no railroad, street, road, alley, pipe line, telephone, telegraph, or electric line, or other public utility or thoroughfare whatsoever shall ever be laid out through, over, or across any part thereof, without the consent of the directors of the cemetery association owning or operating the same, or of not less than two-thirds of the owners of burial plots therein, and all of such property, including road, alleys, and walks therein, shall be exempt from public improvements assessments, and all public taxation, and shall not be liable to be sold on execution or applied in payment of debts due from individual owners of burial plots therein. Acts 1945, 49th Leg., p. 559, ch. 340, § 11.

Art. 912a—12. Sale of property for interment purposes and property rights

After filing the map or plat and recording the certificate or declaration of dedication, but not prior thereto, and subject to its rules and regulations and/or to such limitations, conditions, and restrictions, as may be inserted in or by reference made a part of the instrument of conveyance, the cemetery association may sell and convey the exclusive right to sepulture in the burial plots to purchasers. No license of any

kind or character shall be required of any person, firm or corporation on account of or to authorize the sale of lots, graves or interment space in any dedicated cemetery. All lots, sections, or parts thereof, the use of which has been so conveyed by certificate of ownership as a separate plot, shall be indivisible except with the consent of the cemetery association, or as shall be provided by law. All conveyances of such exclusive right of sepulture made by the cemetery association shall be signed by the president or the vice president and secretary or other officers authorized by the cemetery association. All lots, plots, and burial space in which the exclusive right of sepulture has been conveyed shall be presumed to be the sole and separate property of the person or persons named as grantee in the instrument of conveyance; provided, however, that the wife or husband shall have a vested right of interment of his or her body in any burial plot in which the exclusive right of sepulture has been conveyed to the other, which right shall continue as long as he or she shall remain the wife or husband of the plot owner or shall be his or her wife or husband at the time of such plot owner's demise. No conveyance or other action without the joinder therein or by written consent attached thereto shall divest such husband or wife of such vested right of interment; provided, however, that a final decree of divorce between them shall terminate such vested right of interment unless it shall be otherwise provided by such decree of divorce.

A vested right of interment as in this section provided may be waived and shall be terminated upon the interment elsewhere of the remains of a person entitled thereto under this section. Acts 1945, 49th Leg., p. 559, ch. 340, § 12.

Art. 912a—13. Inalienable by interment; rights of co-owners

Whenever an interment is made in a burial plot in which the exclusive right of sepulture has been conveyed to an individual owner and said owner dies without making specific disposition of such burial plot in his will, or by a written declaration filed and recorded in the office of the cemetery association, upon the death of such owner the exclusive right of sepulture in the whole of such burial plot thereby becomes inalienable and such burial plot shall be held as the family burial plot of the owner, in which one grave, niche or crypt may be used for the owner's interment, one for the surviving husband or wife, if any, of the owner who by law has a vested right of interment therein, and in those remaining, if any, the parents and/or children of such deceased owner, in the order of need, may be interred without the consent of any person claiming any interest therein. In the event there shall be no parent or child surviving such deceased person, the right of interment therein shall vest in the heirs-at-law of said deceased owner in the order in which they are specified by the statutes of descent and distribution. Any surviving wife or husband, and any parent, child or heir of such deceased owner may waive his or her right to interment in said plot in favor of any other relative of such deceased owner, or of his wife, and upon such waiver the body of the person in whose favor the waiver is made may be interred therein.

If no interment shall have been made in a burial plot in which the exclusive right of sepulture has been conveyed to an individual owner by the association, or if all bodies shall have been lawfully removed therefrom, in the absence of the specific disposition thereof by the owner's last will and testament, the exclusive right of sepulture in the whole of said burial plot, except the one grave, niche, or crypt which must be reserved to the surviving husband or wife of the owner, shall upon the

death of said owner descend in regular line of succession to the heirs-at-law of the owner.

When there are two (2) or more owners of a burial plot, or of rights of interment therein, such owners may designate one or more persons to represent said plot and file written notice of such designation with the cemetery association; in the absence of such notice or of written objection to its so doing, the cemetery association shall not be liable to any owner for interring or permitting an interment therein upon the request or direction of any registered co-owner of such plot. Acts 1945, 49th Leg., p. 559, ch. 340, § 13.

Art. 912a—14. Rules and regulations

The cemetery association may make, adopt and enforce rules and regulations for the use, care, control, management, restriction, and protection of its cemetery, and of all parts and subdivisions thereof; for restricting and limiting the use of all property within its cemetery; for regulating the uniformity, class, and kind of all markers, monuments, and other structures within said cemetery and subdivisions thereof and/or prohibiting the erection of monuments, markers and/or other structures in or upon any and/or all portions of such property; for regulating and/or preventing monuments, effigies and structures within any and/or all portions of the cemetery grounds and for the removal thereof; for regulating or preventing the introduction and/or care of plants or shrubs within such grounds; for the prevention of interment in any part thereof of a body not entitled to interment therein; for preventing the use of burial plots for purposes violative of its restrictions; for regulating the conducts of persons and preventing improper assemblages therein; and for all other purposes deemed necessary by the board of directors for the proper conduct of the business of the association and the protection and safeguarding of the premises, and the principles, plans, and ideals on which the cemetery was organized; and from time to time may amend, add to, revise, change and/or modify such rules and regulations. Such rules and regulations shall be plainly printed or typewritten and maintained subject to inspection in the office of the association or in such place or places within the cemetery as the directors may prescribe. The directors may prescribe penalties for the violation of any rule or regulation which penalties may be recoverable by the association in a civil action. Acts 1945, 49th Leg., p. 559, ch. 340, § 14.

Art. 912a—15. Establishment of perpetual care

Every cemetery association or municipality or other political subdivision which has established and is now maintaining, operating and conducting a perpetual care cemetery, and every association which shall hereafter establish, maintain, operate, and/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 irreducible fund for the general perpetual care of its cemetery and to place its cemetery under perpetual care. The principal of all funds for perpetual care shall forever remain irreducible and inviolable and shall be maintained separate and distinct by the Trustee from all other funds. 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 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 the 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, the trustee may in its discretion withhold said income from said board of directors and make suitable arrangements with third parties for the general care and maintenance of the property entitled to perpetual care in the cemetery for which said fund is established, and in the further event of the failure of the trustee so to do, any lot owner in said cemetery whose lot is entitled to perpetual care shall have the right by suit for mandatory injunction or for a receiver to take charge of and expend such income, filed in the District Court of the county in which the cemetery is located, to compel the expenditure either by the trustee or by such receiver, of the net income from the perpetual care fund for the purpose hereinabove set forth.

In establishing its perpetual care fund the association may from time to time adopt plans for the general care, maintenance and embellishment of its cemetery. If the cemetery originally sold cemetery lots without provision for perpetual care, it shall have the right to accept deposits from such lot owners for the purpose of establishing perpetual care endowment on those lots, provided said deposits meet the requirements hereof, such deposits to be placed in trust in conformity with the requirements of this article.

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 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 fund an amount equivalent to a minimum of Twenty (20) Cents per square foot of ground area sold or disposed of as perpetual care property, after March 15, 1934, together with such amount as was stipulated in any contracts under which perpetual care property was sold prior to March 15, 1934; a minimum of Fifteen Dollars (\$15) per each crypt interment right sold or disposed of as perpetual care property for mausoleum interment, and a minimum of Five Dollars (\$5) per each niche interment right sold or disposed of as perpetual care property for columbarium interment. Such minimum requirements shall apply to all property in which the exclusive right of sepulture has been sold and paid for, wheth-

er used for interment purposes or not. The deposit of such funds in the perpetual care fund shall be made within thirty (30) days after the receipt of the final purchase price of each lot, grave, crypt, or niche sold as property entitled to perpetual care. No cemetery shall hereafter operate as a perpetual care, permanent maintenance, or free care cemetery until the provisions hereof are complied with. Acts 1945, 49th Leg., p. 559, ch. 340, § 15.

¹ Articles 912a—1 to 912a—27; P.C., art. 705b—1.

Art. 912a—16. Requirements of perpetual care cemeteries

Each perpetual care cemetery as defined in this title shall post in a conspicuous place in the office and/or offices where sales are conducted or if there be no office, in a conspicuous place at or near the entrance of the cemetery or administration building, and readily accessible to the public, a sign which shall contain the following information in the order and manner set forth below:

(a) "Perpetual Care Cemetery"—which shall appear in a minimum of forty-eight (48) point black type.

(b) Names of officers and directors of the cemetery and the name of the bank or trust company entrusted with care of perpetual care funds.

Each perpetual care cemetery shall include in each conveyance of the exclusive right of sepulture, certificate of ownership, or sales contract executed by it, the following statement: "This cemetery is operated as a perpetual care cemetery, which means that a perpetual care fund for its maintenance has been established in conformity with the laws of the State of Texas. Perpetual care means to keep the sod in repair and all places where interments have been made in order and to care for trees and shrubs planted by the cemetery." Acts 1945, 49th Leg., p. 559, ch. 340, § 16.

Art. 912a—17. Investment of perpetual care funds

Perpetual care funds shall not be used for any other purpose than to provide through the income only therefrom the perpetual care stipulated in the resolution, bylaw, or other action or instrument by which the fund was created or established, and it shall be the duty of the duly appointed trustee to invest, reinvest and keep such funds invested in such securities or assets as are or shall hereafter comply with the provisions of the Texas Trust Act¹ in so far as the same may govern the investment of trust funds by the trustees thereof. No such investment shall be made without the written approval of either an active officer of the cemetery association or of a majority of its directors, and no such investment shall be made except at the prevailing market value of the securities at the time of the acquisition thereof. Acts 1945, 49th Leg., p. 559, ch. 340, § 17.

¹ Articles 7425b—1 to 7425b—47.

Art. 912a—18. Special care

The trustee of any cemetery perpetual care fund may also take and hold any property bequeathed, granted, or given to it in trust to apply the principal, or proceeds, or income therefrom to either or all of the following purposes: To the improvement or embellishment of such cemetery, or any part thereof, or any lot therein, to the erection, renewal, repair or preservation of any monuments, fence, building or other structure in such cemetery; to the planting, cultivation of trees, shrubs, or plants in or around such cemetery, or any part thereof; for the special care or ornamenting of any burial plot, lot, section or building or any

portion thereof in said cemetery or to any other purpose or use not inconsistent with the purpose for which such cemetery was established or is being maintained. Not exceeding seventy-five (75) per cent of the proceeds or income therefrom shall be devoted to keeping up and beautifying the private blocks, lots or structures for the upkeep of which the bequest, grant, or gift is made. At least twenty-five (25) per cent of such proceeds or income shall be devoted to the general upkeep and beautifying of the cemetery in which such lots, blocks, or structures are located.

Persons desiring to provide a fund for maintaining and keeping up and beautifying private blocks, lots, or structures in any nonperpetual care cemetery in this State, may do so by setting aside for such purposes a reasonable sum of money or property and by providing by written instrument which shall recite the terms of the trust for a trustee (which shall be a trust company or a bank with trust powers, operating within this State) to handle and invest said sum or property and spend the proceeds or income therefrom as follows: Not exceeding seventy-five (75) per cent of the net income or proceeds therefrom shall be devoted to keeping up and beautifying the private blocks, lots, or structures, designated in the instrument, the portion of such income or proceeds not expended annually as set out above, the amount to be not less than twenty-five (25) per cent of such income or proceeds as are spent annually, shall be devoted to the general upkeep and beautification of the cemetery in which blocks, lots, or structures are located. Such trust and the administration thereof shall not be regarded and held to be a perpetuity, but as a provision for the discharge of a duty due from the person founding such trust to the persons interred upon such blocks or lots and to the public. Acts 1945, 49th Leg., p. 559, ch. 340, § 18.

Art. 912a—19. Cemeteries placed in receivership

Whenever any perpetual care cemetery within this State shall be placed in receivership the receiver shall, from and out of the proceeds of the liquidation thereof, make such deposits in the perpetual care fund established for said cemetery as shall be necessary to meet the minimum requirements for perpetual care funds provided by law, and any deficit in said perpetual care fund below said minimum requirements shall be a preferred claim against any assets in the possession of the receiver, and shall take precedence over all claims other than vendor's liens on the cemetery property. Acts 1945, 49th Leg., p. 559, ch. 340, § 19.

Art. 912a—20. Duty of interring and right to control disposition of remains

The right to control the disposition of the body of a deceased person, unless other directions shall have been made therefor by the deceased, shall be vested in, and the duty of interment (and the liability for the reasonable cost of the interment) of such deceased person shall devolve upon, his or her surviving wife or husband, or if there be no surviving wife or husband they shall vest in and devolve upon the surviving child or children of deceased, or if there be no surviving husband or wife or child of deceased, they shall vest in and devolve upon the surviving parent or parents of such deceased, or if there be no surviving husband, or wife or child or parent of such deceased, they shall vest in and devolve upon the person or persons respectively in the next degrees of kindred in the order named by the laws of Texas as entitled to succeed to the estate of said deceased.

In all other cases, the disposition of the body and the duty of interment shall devolve upon the coroner conducting the inquest upon the

body of the deceased, if any such inquest is held, and if there be no inquest they shall devolve upon the county in which the death occurs; provided, further, that any person representing himself as knowing the facts who shall sign any order or statement, other than a death certificate, for the purpose of procuring the interment of any remains shall be deemed to warrant the identity of the person whose remains are sought to be interred or cremated, and shall be personally and individually liable for all damage occasioned thereby or resulting directly or indirectly therefrom. Acts 1945, 49th Leg., p. 559, ch. 340, § 20.

Art. 912a—21. Records of interments

A record shall be kept of every interment in a cemetery showing the date the body was received, the date of interment, the name and age of the person interred, when these particulars can be conveniently obtained, and the plot and the grave, the niche, crypt, or vault therein, in which such interment was made. No remains, either cremated or uncremated, of any deceased person shall be removed from any cemetery, except upon written order of the health department having jurisdiction, or of the county Court of any county in which such cemetery is situated. A duplicate copy of which order shall be maintained as a part of the records of such cemetery. It shall be the duty of any person and/or persons, removing any remains from any cemetery, to keep and maintain a true and correct record showing the date such remains were removed, the name and age of the person removed, when these particulars can be conveniently obtained, and the place to which the same were removed, and the cemetery and the plot therein in which such remains were buried; if there be disposition of such remains other than interment, a record shall be made and kept of such disposition. Such person or persons shall deliver to the cemetery association operating the cemetery from which such remains were removed, a true, full, and complete copy of such record. Acts 1945, 49th Leg., p. 559, ch. 340, § 21.

Art. 912a—22. Removals

The remains of a deceased person interred in a plot in a cemetery may be removed therefrom with the consent of the cemetery association and the written consent of the surviving wife or husband, or if there is no surviving husband or wife, then of the children; or if there is no surviving husband or wife nor children, then of the parents of the deceased, or should there be no surviving husband or wife nor children nor parent, then of the brothers and/or sisters of the deceased. If the consent of any such person or of the association cannot be obtained, permission by the county court of the county where the cemetery is situated shall be sufficient. Notice of application to the Court for such permission must be given, at least ten (10) days prior thereto, personally, or at least fifteen (15) days prior thereto if by mail, to the cemetery association, and to the persons not consenting and to every other person or association on whom service of notice may be required by the Court. This provision shall not apply to or prohibit the removal of any remains from one plot to another in the same cemetery or the removal of remains by the cemetery association from a plot for which the purchase price is past due and unpaid, to some other suitable place. Neither shall this provision apply to the disinterment of remains upon order of Court or coroner. Acts 1945, 49th Leg., p. 559, ch. 340, § 22.

Art. 912a—23. May contract pecuniary indebtedness but all liens subordinate to dedication

Cemetery associations shall in the conduct of their business have the right to contract such pecuniary obligations as may be required, and may secure the same by mortgage, deed of trust or otherwise upon their property. Provided, that all mortgages, deeds of trust and other liens of whatsoever nature, hereafter contracted, placed or incurred upon property which has been and was at the time of the creation or placing of such lien, dedicated as a cemetery as in this Act¹ authorized and provided, or upon property which shall afterwards, with the consent of the owner of any such mortgage, trust deed or lien, be dedicated to cemetery purposes as authorized by this title, shall in nowise or at all affect or defeat the dedication thereof, but such mortgage, deed of trust, or other lien shall be subject and subordinate to such dedication and any and all sales made upon foreclosure thereof shall be subject and subordinate to the dedication of such property to cemetery purposes. Acts 1945, 49th Leg., p. 559, ch. 340, § 23.

¹ Articles 912a—1 to 912a—27; P.C., art. 705b—1.

Art. 912a—24. Location of cemetery

It shall be unlawful for any person, company, corporation, or association to establish or use for burial purposes any graveyard or cemetery, or any mausoleum and/or cemetery except in a cemetery heretofore established and operating, located within, or within less than one (1) mile from, the incorporated line of any city of not less than five thousand (5,000) nor more than twenty-five thousand (25,000) inhabitants according to the last preceding Federal Census, or within, or within less than two (2) miles from, the incorporated line of any city of not less than twenty-five thousand (25,000) nor more than fifty thousand (50,000) inhabitants according to the last preceding Federal Census, or within, or within less than three (3) miles from, the incorporated line of any city of not less than fifty thousand (50,000) nor more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, or within, or within less than four (4) miles from, the incorporated line of any city of not less than one hundred thousand (100,000) nor more than two hundred thousand (200,000) inhabitants, according to the last preceding Federal Census, or within, or within less than five (5) miles from, the incorporated line of any city of not less than two hundred thousand (200,000) inhabitants, according to the last preceding Federal Census; provided that where cemeteries have heretofore been used and maintained within the limits hereinabove set forth, and additional lands are required for cemetery purposes, land adjacent to said cemetery may be acquired by the cemetery association operating such cemetery, to be used as an addition to such cemetery, and the use of said additional land for such purposes shall be exempt from the provisions of this Section. Acts 1945, 49th Leg., p. 559, ch. 340, § 24.

Art. 912a—25. Abatement of nuisances

The maintenance or location and use of any graveyard or cemetery in violation of the provisions of this title are declared to be a nuisance, and the governing body of the city, if said cemetery is within, or within less than five (5) miles from, a city of more than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal census, or the district attorney, if said cemetery is not within, or within five (5) miles of, a city of more than twenty-five thousand (25,000) inhabitants,

according to the last preceding Federal Census; or any person owning a residence in or near the town or city in which, or in such proximity as specified in Section 24¹ hereof to which, such graveyard or cemetery is located, may maintain an action in the Courts to abate such nuisance and to enjoin its continuance, and if it appears that said nuisance exists or is threatened in violation of this Act,² a perpetual injunction shall be granted against parties guilty of such nuisance. Whenever any old cemetery for which a perpetual care and endowment fund has not been regularly and legally established, is so neglected as to be offensive to the inhabitants of the section surrounding same, it may likewise be abated and its continuance enjoined. If such cemetery be located within the city limits of an incorporated city or town, the governing body thereof may authorize the removal of all bodies, monuments, tombs, etc., therein to a perpetual care cemetery as defined in this Act. Acts 1945, 49th Leg., p. 559, ch. 340, § 25.

¹ Article 912a-24.

² Articles 912a-1 to 912a-27; P.C., art. 705b-1.

Art. 912a-26. Police power to sexton

The sexton, superintendent or other person in charge of a cemetery shall have, and is hereby granted, all and equal powers, functions, duties and authority granted by law to a police officer within the city in which such cemetery is located, or if such cemetery be located outside of a city, to a constable and/or sheriff of the county or counties wherein the same is situated, for the purpose of maintaining order, enforcing the rules and regulations of the cemetery association, the laws of the State and the ordinances of such city, and he shall be charged with the enforcement thereof within the cemetery over which he has charge, and within such radius of the same as shall be necessary to protect the cemetery property. Acts 1945, 49th Leg., p. 559, ch. 340, § 26.

Art. 912a-27. Constitutionality

If any section, subsection, sentence, clause, word or phrase of this Act is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Act, which are hereby declared distinct and severable. The Legislature hereby expressly declares that it would have passed this Act and each section, subsection, sentence, clause, word and phrase irrespective of the fact that any one or more section, subsection, sentence, word, or phrase be declared unconstitutional. Acts 1945, 49th Leg., p. 559, ch. 340, § 28.

Arts. 912-930a. Repealed. Acts 1945, 49th Leg., p. 559, ch. 340, § 29.

Eff. 90 days after June 5, 1945, date of adjournment

Prior to repeal article 926 was amended
by Acts 1943, 48th Leg., p. 74, ch. 59.

Arts. 930b-931b. Repealed. Acts 1945, 49th Leg., p. 559, ch. 340, § 29.

Eff. 90 days after June 5, 1945, date of adjournment

TITLE 28—CITIES, TOWNS AND VILLAGES

CHAPTER ONE—CITIES AND TOWNS

Art.

969c. Cemeteries; city or town as trustee; successor [New].

Art.

974e—6. Cities of 3,944 to 3,964, procedure for annexation of unoccupied lands to [New].

Art. 969c. Cemeteries; city or town as trustee; successor

Section 1. Any incorporated or chartered city or town within the State of Texas, owning, operating, or having control of any cemetery or cemetery property, shall have the power and authority to act as a permanent trustee for the perpetual care and upkeep of the lots and graves in such burial grounds. Any city or town desiring to act as such trustee may do so by the passage of an ordinance or resolution, signifying its willingness and intention to act as such trustee, by the majority of its governing board, council, or aldermen; and upon the passage of said ordinance or resolution and the acceptance of such trust, as herein provided for, the same shall become perpetual.

Sec. 2. Said cities and towns shall have the right, power, and authority to make reasonable rules and regulations as such trustee, to receive gifts, grants, and donations from any source, and to also fix the amounts necessary for the permanent care and upkeep of individual graves or family lots. Any person desiring to have a city or town, now acting or which may hereafter desire to act as such trustee for the permanent care and upkeep of such graves and burial lots, to act as trustee for him or those deceased persons in whom he has an interest or to whom he may feel attached, shall have the right to deposit such amount or funds as may be required by the said city or town for this purpose; and the acceptance by the said city or town of the funds required for such purpose shall constitute a permanent and perpetual trust fund for the burial lot or grave or graves so designated. Upon the acceptance by said city or town of such trust, its Secretary, Clerk or Mayor shall issue a certificate to the person or persons advancing such funds or money, which said certificate shall recite the purpose, the amount advanced and by whom, and the location, as nearly as possible, of the lot, grave or burial place, and such further information and designation as said city or town may deem proper.

Sec. 3. Any city or town acting as such trustee shall keep a permanent and well-bound record book in which shall be kept in alphabetical order the names of all persons advancing funds, the amount advanced, the purpose for which such advancement was made, names and locations, in so far as possible, of lots and graves, the condition and status of the trust imposed, and such further information as said city or town may deem proper.

Sec. 4. Said cities and towns shall have the right, power, and authority to invest and reinvest all funds advanced to it for the purposes herein set forth in interest-bearing bonds or securities of a municipality, state, or the federal government. At all times the interest, revenue, or other accrual or increase of the funds advanced for specific lots, graves, or burial places, shall be first used for the maintenance, care, and upkeep, in a first class condition, of the particular lot, graves, or burial place for which the advancement and donation was originally made. However, in the event of the accrual of a reasonable excess of revenue

from such specific fund and the accumulation of a greater amount than is necessary for the faithful accomplishment of the trust and purpose herein provided for, such excess may, in the discretion of such trustee, be used to beautify the whole cemetery or burial grounds generally; but at no time shall any part of the original or principal amount first advanced and donated for the care, upkeep, and maintenance of specific lots, graves, and burial places, ever be used by such trustee. This original amount or fund shall forever remain and be kept intact as a principal trust fund.

Sec. 5. All certificates issued by such city or town shall be issued in the name of the said city or town to the trustee or person who makes the advancement of funds or money as herein provided for; and such certificate holder shall have the right, upon the payment of the proper cost or recording fee, to have such certificate recorded in the Deed Records of the county in which such cemetery is located; and it shall be the duty of all county clerks in the State of Texas to file, index, and record such certificates in the deed records of the county in which such cemetery is situated.

Sec. 6. None of the rights, powers, and duties herein provided for shall deprive any person having an interest in a grave or burial lot, or kinship within the third degree by affinity or consanguinity to those there interred, from beautifying or caring for the same individually or at his own expense, under such reasonable rules and regulations as said city or town may provide.

Sec. 7. In the event that any city or town should, after having engaged upon and accepted the trust herein provided for, renounce such trust, or fail to refuse to act further as such trustee, as herein provided for, then the district judge or highest trial judge of the county in which such cemetery is located shall appoint a suitable successor or trustees, whenever the occasion demands or a vacancy occurs, to act in lieu of said city or town and to carry out and faithfully execute the trust herein provided for.

Sec. 7a. Such city or town may include in its annual budget such sum as may be deemed necessary for maintenance and upkeep of such cemetery and shall have power or authority to assess and collect an ad valorem tax upon all the property within such city or town not to exceed Five (5) Cents on the One Hundred Dollars (\$100) valuation of all the property so assessed for maintenance and upkeep of such cemetery, regardless whether such cemetery is located within or without the boundary of corporate limits of such city or town.

Sec. 8. This Act shall be cumulative of all existing laws; but its intention is that the trust herein provided for shall not fail for any reason and, if any section or part hereof is invalid, then the remainder shall not in any way be affected or held to be invalid. Acts 1945, 49th Leg., p. 194, ch. 148.

Emergency. Effective May 3, 1945.

Title of Act:

An Act providing that any incorporated city or town in Texas that may own, operate or have control of a cemetery shall have power to act as trustee, providing for perpetual care and upkeep of cemetery, providing procedure, duties of such trustee, method of acquiring funds as such trustee, authority to invest such funds; keep-

ing records and accounting for such funds; certificates to be issued and recorded; providing for substitute trustee and further providing for assessing and collecting a tax by such city for maintenance and upkeep of such cemetery; that this Act shall be cumulative of all existing laws and providing a saving clause; and declaring an emergency. Acts 1945, 45th Leg., p. 194, ch. 148.

Art. 974e—6. Cities of 3,944 to 3,964, procedure for annexation of unoccupied lands to

Section 1. That the owner or owners of any land and/or territory, or the Board of Trustees of any public school, which occupies such terri-

tory, which is vacant and without residents, contiguous and adjacent to any city in this state having a population of not less than three thousand nine hundred and forty-four (3,944) nor more than three thousand nine hundred and sixty-four (3,964) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinance of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments of deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having interest in such land, shall be filed in the office of the County Clerk of the county in which such city is situated. Acts 1945, 49th Leg., p. 147, ch. 97.

Emergency. Effective April 25, 1945.

Title of Act:

An Act prescribing the method for the annexation of unoccupied territory contiguous and adjacent to the city limits of

certain incorporated cities and towns on petition of the owners of all such territory; providing for the recording of such petitions; and declaring an emergency. Acts 1945, 49th Leg., p. 147, ch. 97.

CHAPTER FOUR—THE CITY COUNCIL

Art.

1011k. Neighborhood zoning areas in cities over 290,000 [New].

Art.

1015g. Toll bridges over international boundary rivers, powers respecting [New].

Art. 1011k. Neighborhood zoning areas in cities over 290,000

The legislative body of any city having a population of more than 290,000 inhabitants according to the last preceding Federal Census, and which has adopted a comprehensive zoning ordinance under the law of the State of Texas, may by ordinance divide the city into such neighborhood zoning areas after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in such municipality. The Mayor of such city, with the approval of its legislative body, may thereupon appoint for each of said areas a Neighborhood Advisory Zoning Council, consisting of five citizens residing in the area, who shall hold office for two years or until their successors are appointed and qualify. It shall be the duty of such Neighborhood Advisory Zoning Council to furnish to the Zoning Commission of such

city information, advice and recommendations with respect to all applications filed with the Zoning Commission for changes in the zoning regulations of such city affecting property within said area. As soon as any such application is filed with the Zoning Commission of the city, the Zoning Commission shall furnish the Neighborhood Advisory Zoning Council for the area which would be affected by such application if granted with a copy thereof, and thereupon it shall be the duty of the Neighborhood Advisory Zoning Council to hold a public hearing in relation thereto, giving at least ten days notice of the time and place of such hearing by publication in an official paper or a paper of general circulation in such municipality, and at or before the hearing on such application before the Zoning Commission it shall be the duty of the Neighborhood Advisory Zoning Council to furnish and submit to the Zoning Commission such information, advice and recommendations with respect to such application as it deems proper. Overruling of any recommendation of the Neighborhood Advisory Zoning Council with respect to the disposition of such application shall require the vote of at least three-fourths (3/4) of the members of the Zoning Commission present. Acts 1945, 49th Leg., p. 202, ch. 155, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Sections 2 and 3 of the Act of 1945 read as follows:

"Sec. 2. All statutes and parts of statutes in conflict with this Act are hereby repealed.

"Sec. 3. If any paragraph, sentence, clause, phrase or other part of this Act be held invalid for any reason, such holding shall, nevertheless, not affect the other portions of this Act, and such holding shall be restricted to the particular facts and circumstances of the case in which such holding is made."

Title of Act:

An Act authorizing the legislative body of any city having a population of more than 290,000 according to the last preceding Federal Census, and which has adopted a comprehensive zoning ordinance under the law of this state to divide the city into neighborhood zoning areas after public hearing thereon, and authorizing the Mayor of such city, with the approval of the legislative body of the city, to thereupon appoint for each of said areas a Neighborhood Advisory Zoning Council, consisting of five citizens residing in the area, who shall hold office for two years or until their successors are appointed and qualify; and providing that it shall be the duty of

such Council to furnish to the Zoning Commission of the city information, advice and recommendations with respect to all applications for changes in the zoning regulations affecting said area; and providing that as soon as such an application is filed with the Zoning Commission the latter shall furnish the Council for the area to be affected by such application with copy thereof, and that thereupon it shall be the duty of said Council to hold public hearings in relation thereto, giving at least ten days notice of the time and place of such hearing by publication in an official paper or a paper of general circulation in such municipality; and providing that at or before the hearing on such application before the Zoning Commission it shall be the duty of the Council to furnish and submit to the Zoning Commission such information, advice and recommendations as it deems proper with respect to such application; and providing that the overruling of any recommendation of the Council by the Zoning Commission with respect to any change in such zoning regulations shall require the vote of at least three-fourths of the members of the Zoning Commission present; repealing conflicting statutes; containing a savings clause; and declaring an emergency. Acts 1945, 49th Leg., p. 202, ch. 155.

Art. 1015g. Toll bridges over international boundary rivers, powers respecting

Section 1. Any city or town in this State now or hereafter incorporated under the General Laws of this State, and not having a special charter granted by the Legislature of this State, and not having a charter adopted or amended under the Home Rule provisions of the Constitution and Statutes of this State, and having located within its corporate limits or outside its corporate limits but within a distance of two (2) miles from such corporate limits thereof, a toll bridge over a river between the State of Texas and the Republic of Mexico shall have power to acquire any such toll bridge, with its rights and franchises and ap-

purtenant properties, by purchase thereof from the owner or owners thereof; either by purchase of the properties, as such, or, if such toll bridge is owned by a private corporation, either by purchase from it of the properties, as such, or by purchasing the capital stock of such corporation from the owner or owners of such stock, either all of the outstanding capital stock of such corporation or a sufficient amount thereof as required under the law for the dissolution and liquidation of such corporation, and immediately liquidating such corporation, paying the debts and obligations or liabilities thereof, and winding up its business and affairs, and causing conveyance of its properties to said city or town, taking the title to such stock either in the name of such city or town or in the name of a trustee therefor, and voting or causing such stock to be voted to carry out and accomplish such purposes, and all in such manner and to such effect as to vest title to such toll bridge, with its rights and franchises and appurtenant properties, in such city or town; and to thus purchase and acquire any such properties or stock of such corporation, from the owner or owners thereof, for such price, upon such terms and conditions, and upon such covenants and agreements in respect thereto, and to make and enter into such contracts and agreements with such owner or owners therefor, in respect thereto, and to accomplish the purposes of this Act, as may be agreed upon by and between such owner or owners and the Governing Body of any such city or town, the action of the latter being expressed by Ordinance, all as consistent with and subject to the provisions of this Act.

General powers after acquiring bridge

Sec. 2. Any such city or town thus acquiring any such toll bridge shall have power to maintain and operate same, and to own, hold, and control the same, and to make or cause to be made any repairs, improvements, replacements, extensions, or additions thereto, and to renew or extend any franchises therefor, and to obtain new or additional franchises therefor, and to do any and all things required or that may be proper or necessary to the maintenance and operation thereof, and conduct of the business thereof, and of rendering the services thereof to the public and to the patrons of said toll bridge; and to such end and for such purposes shall have power to make and enter into, and to carry out, observe, and perform, any and all contracts, agreements, and undertakings, of any and every kind, required by the United States of America or any of its departments, officers, or governmental agencies, or the public authorities thereof; or required by the Republic of Mexico, or any of its departments, officers, or governmental agencies, or the public authorities thereof.

Tolls and charges

Sec. 3. Any such city or town thus acquiring any such toll bridge shall have power, to be exercised by its Governing Body as expressed by Ordinance, to fix and to enforce and collect tolls and charges for the use thereof, and for the passage or transportation of persons or property, passengers, vehicles, freight and commodities, over and across such toll bridge. Such tolls and charges shall be fixed from time to time by the Governing Body of any such city or town, and collected under its direction, in accordance with the provisions and requirements of any permits or franchises granted or extended by any governmental authority in respect of or applicable thereto; and, subject to the provisions and requirements of any such permits or franchises, shall be just and reasonable and non-discriminatory, as determined by such Governing Body of any such city or town, and with no free service until the bonds herein provided to be issued to acquire such properties, together with the in-

terest thereon, and all duties and obligations incident thereto or arising therefrom are first fully paid, met, and discharged; and, subject to the provisions and requirements of any such permits and franchises, shall be sufficient to produce revenues adequate:

(a) to pay all expenses necessary to the maintenance and operation of such toll bridge, and to comply with the requirements and make all payments necessary under the provisions of any such permits and franchises therefor;

(b) to pay the interest on and the principal of all bonds issued under this Act when and as the same shall become due and payable;

(c) to pay all sinking fund and/or reserve fund payments agreed to be made in respect of any such bonds, and payable out of such revenues, when and as the same shall become due and payable; and

(d) to fulfill the terms of any agreements made with the holders of such bonds and/or with any person in their behalf;

(e) out of the revenues which may be received in excess of those required for the purposes specified in subparagraphs (a), (b), (c), and (d) above, the Governing Body of any such city or town may in its discretion establish a reasonable depreciation and emergency fund, or retire (by purchase and cancellation or redemption) bonds issued under this Act, or apply the same to accomplish any of the purposes of this Act;

(f) it is the intention of this Act that the tolls and charges herein provided for shall not be in excess of what may be necessary to fulfill the obligations imposed by this Act. Nothing herein shall be construed as depriving the State of Texas of its power to regulate and control tolls and charges to be collected for such purposes, or to provide for bridges over any such river to be used free of any tolls or charges, provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the State will not limit or alter the power hereby vested in any such city or town or the Governing Body thereof to establish and collect such fees and charges as will produce revenues sufficient to pay the items specified in subparagraphs (a), (b), (c), and (d) of this Section 3 of this Act, or exercise its powers in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds, together with the interest thereon, with interest on unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of any such city or town in connection with such bonds are fully met and discharged.

Definition of toll bridge with its rights and franchises and appurtenant properties; acquisition of all or part

Sec. 4. The term "toll bridge, with its rights and franchises and appurtenant properties" is hereby defined to mean and include the physical properties of any such bridge, together with and including all permits, grants, franchises, rights, and privileges, of every kind granted or extended by the United States of America, or the Congress thereof, or any department, officer, agency, or governmental authority thereof; or by the Republic of Mexico, or the Congress thereof, or any department, officer, agency, or governmental authority thereof; or by any State or municipality or political subdivision of either or both said two (2) Nations; for or in relation to or in respect of the construction, maintenance, or operation of any such toll bridge; or the collection of tolls and charges for the uses thereof; and including all lands, rights of way, easements, leasehold, contractual or other interest of any kind in any lands in either or both said two (2) Nations, held or used or in any manner incident to or for the construction, maintenance, or operation of such

bridge, or the approaches thereto, or for the use or occupancy of any buildings, structures, appurtenances, appliances, roads, streets, parks, grounds, or conveniences or facilities of any kind, related or in any manner incident thereto; and including all buildings, structures, appurtenances, appliances, equipment, conveniences and facilities, of every kind, held or used or in any manner incident to or for the construction, maintenance, and operation of said bridge; and including all leases and contracts of every kind for the use or occupancy of any such lands, buildings, structures, conveniences, appliances and facilities; and including all rights and properties of every kind incident to or used for the construction, maintenance, or operation of any such toll bridge; each and all whereof shall be construed as included within the meaning of such term "toll bridge, with its rights and franchises and appurtenant properties" as such term is used in this Act; provided, however, that any such city or town, in exercising the powers herein granted, may acquire by purchase as herein provided, all or any part of any such toll bridge, that is, either the entire bridge or only that part thereof which is situated in the State of Texas; and either all or any part of or any of the respective such grants, permits, franchises, rights, contracts, privileges, easements, leases, lands, rights of way, buildings, structures, appurtenances, appliances, equipment, facilities, and other interests and items above enumerated, as included within the meaning of such term "toll bridge, with its rights and franchises and appurtenant properties" as used in this Act; as the Governing Body of any such city or town may, in its discretion, determine and deem best.

Parks, recreation grounds, camps, quarters, accommodations and facilities

Sec. 5. Any such city or town acquiring any such toll bridge shall have the power, in connection with the maintenance and operation thereof, to acquire lands and a site or sites for the purpose either within or without the corporate limits of such city or town, within territory adjacent to said city or town or to said toll bridge, and to construct, maintain, and operate parks, recreation grounds and facilities, camps, quarters, accommodations and facilities, for the use and convenience of the public; and to fix and to enforce and collect fees, rentals, and charges, for the use thereof, which shall be just and reasonable and non-discriminatory, as determined by and fixed from time to time by the Governing Body of such city or town; and to make and enforce reasonable rules and regulations therefor; and to manage, control, govern, police, and regulate the same.

Borrowing money; grants from United States or agencies

Sec. 6. Any such city or town, to accomplish the purposes of this Act, shall have power to borrow money from any person or corporation, and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, or from any corporation or agency created by the United States of America or designated or empowered to act as an agency thereof, and, in connection with any such loan or grant, to enter into such agreements as the United States of America or such agency or corporation may require in respect or in relation thereto.

Issuance of bonds

Sec. 7. Any such city or town shall have the power to accomplish the purposes of this Act, to issue, sell and deliver, its negotiable bonds; which bonds or the proceeds of the sale thereof may be used to purchase and acquire from the owner or owners thereof any such toll bridge, with

its rights and franchises and appurtenant properties, or such part or portion thereof as may be purchased by any such city or town as herein provided for, either by purchase of the properties, as such, or by using such bonds or the proceeds of the sale thereof for the purchase from the owner or owners thereof of the stock of any corporation owning such toll bridge and for the liquidation and winding up of the business and affairs of such corporation and paying the debts and obligations or liabilities thereof, and all in such manner and to such effect as to vest title to such toll bridge, with its rights and franchises and appurtenant properties, or such part or portion thereof as may be purchased, in said city or town as provided for herein; and which bonds may be exchanged for property or sold as herein provided; to accomplish any of the purposes of this Act as herein provided.

Mortgages or pledges

Sec. 8. Any such city or town shall have the power, in respect to any such bonds issued in pursuance of the provisions of this Act to accomplish any of the purposes of this Act, to mortgage or pledge all or any part of or any interest in any such toll bridge, with its rights and franchises and appurtenant properties, or any of the properties acquired or to be acquired with such bonds or the proceeds of the sale thereof; and all or any part of the gross or net revenues thereafter received by said city or town from or in respect of any such properties so acquired or to be acquired by said city or town with such bonds or the proceeds of the sale thereof; 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; and to make and enter into such covenants and agreements with the purchasers of such bonds or any person in their behalf in respect thereto and for securing the payment thereof and for providing rights and remedies to the owners and holders of such bonds or to any person in their behalf, as the Governing Body of any such city or town may in its discretion approve and determine and provide by an Ordinance or Ordinances adopted for such purposes; all in accordance with the provisions of this Act.

Amount, denominations and terms of bonds

Sec. 9. Any such bonds issued by any such city or town in pursuance of and to accomplish the purposes of this Act, shall be in such aggregate principal amount or amounts, of such denominations, bearing such date or dates, of such maturities, bearing interest at such rate or rates, not exceeding six (6) per cent per annum, payable annually or semi-annually on such respective dates, in such form, containing such terms, provisions, and conditions, either coupon or registered, with such registration privileges, such provisions for the call or redemption thereof before maturity, payable at such place or places within or without the State of Texas, as the Governing Body of any such city or town may in its discretion approve and determine and provide by an Ordinance or Ordinances adopted for such purposes; all in accordance with the provisions of this Act.

Sale or exchange of bonds

Sec. 10. Any such bonds issued by any such city or town in pursuance of and to accomplish the purposes of this Act, may either be:

(a) sold for cash, at public or private sale, at such price or prices as the Governing Body of any such city or town shall determine, provided, that the interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks

and insurance companies, shall not exceed six (6) per cent per annum; or,

(b) may be issued on such terms as the Governing Body of any such city or town shall determine in exchange for property of any kind, real, personal or mixed, or any interest therein, which the Governing Body of such city or town shall determine to be proper and necessary to accomplish any of the purposes of this Act; or,

(c) may be issued in exchange for like principal amounts of any other bonds of such issue, matured or unmatured.

Deposit of proceeds

Sec. 11. If such bonds are sold for cash, the proceeds of the sale of such bonds shall be deposited in such depository and shall be paid out pursuant to such terms and conditions, as may be agreed upon between the Governing Body of such city or town and the purchasers of such bonds.

Negotiability; exemption from taxation; investment in bonds

Sec. 12. Any such bonds issued by any such city or town in pursuance of and to accomplish the purposes of this Act, shall constitute negotiable instruments under the Negotiable Instruments Act of this State; and are hereby exempted from any and all State, county, municipal, and other taxation under the laws of this State; and shall be legal investments for banks, trust companies, and insurance companies organized under the laws of this State.

Application of other laws

Sec. 13. The provisions of Articles 1111 to 1118, inclusive of the Revised Civil Statutes of Texas of 1925, as amended, and of the Bond and Warrant Law of 1931, as amended,¹ shall apply to and govern the purchase of any such properties by any such city or town, in pursuance of the provisions of this Act, and the issuance, sale, and delivery of any such bonds, and manner of securing the payment thereof, and in respect to the enforcement of such obligations, and the rights and remedies of the owners and holders of such bonds or of any person acting in their behalf, in respect to the maintenance and operation of the properties acquired in pursuance of this Act, and in respect to the accomplishment of all the purposes of this Act; except as herein specifically provided for and prescribed by the terms of this Act; and except that none of the limitations and restrictions contained in or imposed by Sections 2, 3, and 4 of said Bond and Warrant Law of 1931, as amended, shall apply to or govern any such purchase of any such properties or issuance of any such bonds by any such city or town; and except that, as is hereby expressly provided, any such city or town may purchase any such properties and issue any such bonds, and may use such bonds or the proceeds of the sale thereof for the purchase of any such properties or to accomplish any of the purposes of this Act, by action of its Governing Body as expressed by Ordinance authorizing and effecting same, and without the necessity of any referendum, and without the necessity of calling or holding any election to authorize any such action, and without the necessity of giving or publishing any notice of intention to acquire any such properties or to issue any such bonds, and without the necessity of advertising or calling for any competitive bids in respect thereto; and provided that in the event there is any conflict between the provisions of this Act and the provisions of said Articles 1111 to 1118, inclusive, Revised Civil Statutes of Texas of 1925, as amended, or the provisions of said Bond and Warrant Law of 1931, as amended, or the provisions of any other applicable

Act or law, the provisions of this Act shall control; and, in all events, all specific provisions of this Act shall control.

¹ Article 2368a.

Taxes or assessments; pledge of credit; not authorized

Sec. 14. Nothing in this Act shall authorize any such city or town, acting in pursuance hereof or to accomplish any of the purposes hereof, to levy or collect any taxes or assessments therefor or in respect thereto, or to pledge the credit of the State in any manner; or to issue or to sell or deliver any bonds or to create any obligations of any kind or to incur any liabilities of any kind or to make or enter into any contracts or agreements of any kind, to be paid or performed or met or discharged out of or from any taxes or assessments.

How powers exercised

Sec. 15. All powers, rights, privileges and functions, conferred by this Act upon any such city or town shall be exercised by and through the Governing Body thereof as expressed by an Ordinance or Ordinances duly adopted to authorize and effectuate the same. No referendum and no election by the voters of any such city or town shall be necessary or required to authorize the exercise of any such powers, rights, privileges, or functions, or the doing of any act or thing to accomplish the purposes of this Act.

Application of other laws

Sec. 16. This Act shall constitute full authority for the authorization and issuance of bonds hereunder and no other Act or law with regard to the authorization or issuance of obligations, or the deposit of the proceeds thereof, in any way impeding or restricting the carrying out of the acts and things herein authorized to be done shall be construed as applying thereto or to any acts or proceedings taken hereunder and acts or things done pursuant hereto, and for the accomplishment of the purposes of this Act.

Cumulative character

Sec. 17. This Act shall be cumulative of all other Acts and laws; and the powers, rights, privileges, and functions hereby conferred on any such city or town, shall not prevent the exercise by any such city or town of any and all other powers, rights, privileges, or functions conferred upon any such city or town by any other Act or law now existing or hereafter enacted.

Liberal construction

Sec. 18. This Act and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

Partial invalidity

Sec. 19. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby. Acts 1945, 49th Leg., p. 397, ch. 258.

Emergency. Effective May 28, 1945.

CHAPTER FIVE—TAXATION

Art.
1066b. Assessor, collector and equaliza-
tion board acting for included
municipality or district [New].

Art. 1066b. Assessor, collector and equalization board acting for in-
cluded municipality or district

Section 1. 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, located entirely within the boundaries of another municipality or district is hereby empowered, to authorize, by ordinance or resolution, the Tax Assessor, Board of Equalization and Tax Collector of the municipality in which it is located to act as Tax Assessor, Board of Equalization and Tax Collector respectively for the municipality or district so availing itself of the services of said officers and Board of Equalization.

The property in said municipality or district utilizing the services of such Assessor, Board of Equalization and Collector shall be assessed at the same value as it is assessed for taxing purposes by the municipality or district the services of whose officers and Board of Equalization are being utilized.

When the ordinance or resolution is passed making available their services, said Assessor shall assess the taxes for and perform the duties of Tax Assessor for the municipality or district so availing itself of his services; the said Board of Equalization shall act as and perform the duties of a Board of Equalization for said municipality or district so availing itself of its services, and said Collector shall collect the taxes and assessments for, and turn over as soon as collected to the depository of said municipality or district or to such other authority as is authorized to receive such taxes and assessments, all taxes or money, so collected, and shall perform the duties of Tax Collector of said municipality or district so availing itself of his services.

In all matters pertaining to such assessments and collections the said Tax Assessor, Board of Equalization and Tax Collector shall be, and hereby are, authorized to act as and shall perform respectively the duties of Tax Assessor, Board of Equalization and Tax Collector of, and according to the ordinances and resolutions of the municipality or district so availing itself of their services, and according to law.

Sec. 2. When the Tax Assessor, Board of Equalization, and Tax Collector of any municipality or district have been authorized by ordinance or resolution to act as and perform the duties, respectively, of Tax Assessor, Board of Equalization and Tax Collector of another municipality or district included within its boundaries, such included municipality or district shall pay the municipality or district, the services of whose officers and Board of Equalization are being utilized, for said services and for such other incidental expense as are necessarily incurred in connection with the rendering of such services, such an amount as may be agreed upon by the governing bodies of said two municipalities or districts.

Sec. 3. Whenever any municipality or district shall have authorized the Tax Assessor, Board of Equalization and Tax Collector of another municipality or district to act as its Tax Assessor, Board of Equalization and Tax Collector, respectively, it may thereafter revoke and withdraw said authority by ordinance or proper resolution in the same man-

ner in which such authority was conferred, and thereafter the municipality or district so revoking such authority shall assess, equalize and collect its taxes in the manner in which same were assessed, equalized and collected before said authority was granted.

Sec. 4. Whenever the governing body of any municipality or district taking advantage of this Act, shall deem it necessary or expedient, said governing body may contract with any competent attorney to enforce or assist in the enforcement of the collection of any of its delinquent taxes and the attorney with whom such contract has been made is hereby fully empowered and authorized to file and push to a speedy conclusion all suits for collection of delinquent taxes, under any contract as herein above specified, and such attorney is hereby fully empowered and authorized to proceed in such suits without the joinder and assistance of the regular attorney or attorneys of said municipality or district.

Sec. 5. The provisions of this Act shall be cumulative of and in addition to all other rights and remedies to which any such municipalities and districts may be entitled, but as to any proceedings under this Act, if any part or portion of this Act be in conflict with any part or portion of any law of the State, the terms and provisions of this Act shall govern as to such proceedings. Acts 1945, 49th Leg., p. 610, ch. 351.

Emergency. Effective June 18, 1945.

Title of Act:

An Act authorizing incorporated cities, towns, or villages, independent school districts, drainage districts, water control and improvement districts, water improvement districts, navigation districts, road districts, or any other municipality or district in the State of Texas, located entirely within the boundaries of another municipality or district, to avail themselves of the services of the Tax Assessors and Collectors and Boards of Equalization of such other municipality, or district in which it

is located; providing for the compensation of such officers and Board for said services; providing a method for the termination of such services; authorizing the employment by any of said municipalities or districts of Attorneys to enforce or assist in the enforcement of the collection of any of its delinquent taxes, prescribing the rights and duties of said Attorneys; providing that if any part or portion of the Act be in conflict with any part or portion of any law of the State, the terms and provisions of this Act shall govern; and declaring an emergency. Acts 1945, 49th Leg., p. 610, ch. 351.

CHAPTER EIGHT—STREETS AND ALLEYS

Art. 1085a. Freeways in cities of 175,000 or more

Section 1. In all incorporated cities and towns containing more than one hundred and seventy-five thousand (175,000) inhabitants according to the last preceding or any future Federal Census, the governing body thereof may do any and all things necessary to lay out, acquire and construct any section or portion of any street within its jurisdiction as a freeway, and to make any existing street a freeway.

Sec. 2. "Freeway" means a street in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access.

Sec. 3. The governing body of any such city or town is authorized to close any street within its jurisdiction at or near the point of its intersection with any freeway, or to make provision for carrying any street over or under or to a connection with the freeway, and may do any and all things on such street as may be necessary therefor.

No existing public street shall be converted into a freeway except with the consent of the owners of abutting lands or the purchase or condemnation of their right of access thereto, provided, however, nothing herein shall be construed as requiring the consent of the owners of the

abutting lands where a street is constructed, established or located for the first time as a new way for the use of vehicular and pedestrian traffic.

Sec. 4. If any section, sub-section, sentence, clause, or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act and each section, sub-section, sentence, clause, and phrase thereof, irrespective of the fact that one or more of the sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict. As amended Acts 1945, 49th Leg., p. 420, ch. 266, § 1.

Emergency. Effective May 28, 1945.

CHAPTER NINE—STREET IMPROVEMENTS

Art. 1086. 1006-7 Powers of city

Towns, cities and villages, incorporated under either general or special law, which shall accept the benefits of this chapter as herein provided, shall have power to improve any highway within their limits, by filling, grading, raising, paving or repaving the same in a permanent manner, or by the construction or reconstruction of sidewalks, curbs and gutters, or by widening, narrowing or straightening the same, and to construct necessary appurtenances thereto, including sewers and drains, and cities having a population of less than fifteen thousand (15,000) inhabitants according to the last preceding or any future Federal census and which have levied the maximum rate of tax permitted by law, shall have the power to construct and install sanitary sewers and all of the provisions and authority of this chapter pertaining to highway improvement shall likewise apply to the construction and installation of sanitary sewers. "City" when used herein (except when otherwise provided above) shall include all incorporated towns, cities and villages, and the term "highway" shall include any street, avenue, alley, highway, or public place or square, or portion thereof, dedicated to public use. Provided that before any proposal to construct sanitary sewers hereunder shall be put into effect the Governing Body of any city shall be presented by a petition signed by two-thirds ($\frac{2}{3}$) of the abutting property owners to be affected requesting the Governing Body of the city to make such improvements." As amended Acts 1945, 49th Leg., p. 317, ch. 232, § 1.

Emergency. Effective May 23, 1945.

Art. 1087. 1008 Order for improvements

The Governing Body of any city shall have power to order the improvement of any highway therein, or part thereof, and in cities having a population of less than fifteen thousand (15,000) inhabitants according to the last preceding or any future Federal census and which have levied the maximum rate of tax permitted by law, to order the construction and installation of sanitary sewers, and to select the materials and methods of such improvement, 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 such improvements out of any available funds of the city. As amended Acts 1945, 49th Leg., p. 317, ch. 232, § 2.

CHAPTER TEN—PUBLIC UTILITIES

1. CITY OWNED UTILITIES

Art.

1110a. Issuance of revenue bonds against
 which judgment is entered
 [New].

1. CITY OWNED UTILITIES

Art. 1107. 1003, 548 Condemnation of property

7. To open and lengthen streets and alleys; to secure space for the erection of public buildings or space to relieve crowded conditions, within or without the limits of such city or town; provided, however, that the provision of this sub-section 7 shall apply only to incorporated cities or towns having a population of less than two thousand (2,000) inhabitants as shown by the last preceding or any future Federal Census. Added Acts 1945, 49th Leg., p. 255, ch. 189, § 1.

Emergency. Effective May 9, 1945.

Art. 1108. 769 to 722¹ Public Utilities

¹ Numbers 769 to 722 should be 769-772.

Art. 1109b. Eminent domain

Incorporated cities and towns shall have the power to appropriate private property for public purposes whenever the governing authorities shall deem it necessary and to take any private property within or without the city limits for any of the following purposes, to wit:

To have the power to appropriate private property for public purposes whenever the governing authorities shall deem it necessary and to take any private property within or without the city limits for any of the following purposes, to wit: City halls, police stations, jails, calaboose, fire stations, libraries, school houses, high school buildings, academies, hospitals, sanitariums, auditoriums, market houses, reformatories, abattoirs, railroad terminals, docks, wharves, warehouses, ferries, ferry landings, elevators, loading and unloading devices, shipping facilities, piers, streets, alleys, parks, highways, boulevards, speedways, playgrounds, sewer systems, storm sewers, sewage disposal plants, drains, filtering beds and emptying grounds for sewer systems, reservoirs, water sheds, water supply sources, wells, water and electric light systems, gas plants, cemeteries, crematories, prison farms, and to acquire lands with and without the city for any other municipal purposes that may be deemed advisable.

The power herein granted for the purpose of acquiring private property shall include the power of the improvement and enlargement of the water works, including water supply, riparian rights, stand pipes, water sheds, the construction of supply reservoirs, parks, squares, and pleasure grounds, public wharves and landing places for steamers and other crafts, and for the purpose of straightening or improving the channel of any stream, branch or drain, or the straightening or widening or extension of any street, alley, avenue or boulevard. That, in all cases where the city seeks to exercise the power of eminent domain, it shall be controlled, as nearly as practicable, by the law governing the condemnation of property of railroad corporations in this State, the city taking the position of the railroad corporations in any such case; that the power of eminent domain hereby conferred shall include the right of the governing

authority, when so expressed, to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes. As amended Acts 1945, 49th Leg., p. 379, ch. 243, § 1.

Emergency. Effective May 24, 1945.

Art. 1110a. Issuance of revenue bonds against which judgment is entered

Section 1. This Act shall be applicable to any city or town against which a judgment shall have been entered or may be entered hereafter because of purchase or construction money expended or advanced, awarding the plaintiff any properties theretofore used by the city as if a part of the city's waterworks system, or requiring it to pay to plaintiff an amount of money equivalent to the value of, or in lieu of the surrender of such property, whether or not requiring it to pay a rental for use and detention of such property. Any such city or town, acting through its governing body, may, subject to compliance with the provisions of the Bond and Warrant Law of 1931 with reference to the publication of notice for a period of fourteen days and affording an opportunity to the qualified voters of such city or town to file a petition for a referendum election upon such question and the favorable outcome of such election if thus required, repurchase from such plaintiff or plaintiff's successor in title, the properties involved, or pay the money judgment awarded against it or acquire needed property in lieu of such property, and may issue revenue bonds for such purposes, conditioned that the holder thereof shall never have the right to demand payment thereof out of moneys raised or to be raised by taxation, and payable out of the revenues of its system which shall include all properties and everything pertaining thereto then owned or thereafter acquired, hereinafter called the "system," and within the discretion of the governing body of such city, further secured by a lien upon the properties constituting the system and a lien upon and grant of a franchise to operate such system, in the event of sale of such system after default in the payment of such Revenue Bonds or interest thereon. The ordinance authorizing such Revenue Bonds may pledge all or any designated part of the net revenues of such system to the payment of such Revenue Bonds. Except as otherwise provided in this Act, such Revenue Bonds shall be issued in accordance with Article 1111 and Articles 1113 to 1118, both inclusive, of the Revised Civil Statutes of Texas as amended.

Sec. 2. After Revenue Bonds shall have been issued under Section 1 of this Act, so secured by the pledge of the revenues of such system, and whether or not secured by a lien upon the properties constituting the system and franchise, nevertheless the city may thereafter while all or a part of said bonds are still outstanding issue additional revenue bonds secured by a pledge of the net revenues of such system and by a lien similar to that, if any, securing the outstanding revenue bonds, for improvements, extensions, repairs, or replacements of and to the system, or for any or all of said purposes, to the extent and in the manner expressly permitted by the ordinance or ordinances authorizing such previously authorized and outstanding revenue bonds. Such additional revenue bonds shall be issued only after an authorizing election on the question shall have been held in the manner prescribed by Chapter 1 of Title 22 of the Revised Civil Statutes of Texas, 1925. If and when such revenue bonds are subsequently issued in accordance with the limitations contained in the ordinance or ordinances authorizing the revenue bonds previously issued under authority of Section 1 of this Act, they shall be secured by a pledge of the revenues of such system and lien upon

the properties constituting the system and upon the franchise of equal dignity with the pledge and liens securing such outstanding revenue bonds.

Sec. 3. Within the discretion of the governing body of such city or town, revenue bonds issued either under Section 1 of Section 2 of this Act and which are made available for such purpose, may be refunded by the same issue or several issues of refunding bonds, provided that the interest cost to the city is not increased by the refunding of such bonds.

Sec. 4. Before any revenue bonds are delivered under the provisions of this Act they shall be submitted to and approved by the Attorney General, and shall be registered by the Comptroller of Public Accounts in the manner and with the effect provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of Texas of 1925, pertaining to the issuance by cities of tax supported bonds. Acts 1945, 49th Leg., p. 605, ch. 349.

Emergency. Effective June 16, 1945.

Title of Act:

An Act applicable to any city or town against which a judgment shall have been entered or may be entered hereafter, either awarding properties theretofore used as if a part of its waterworks system or requiring it to pay an amount of money in lieu of surrendering such property, whether or not requiring it to pay rentals for the use and detention of such property, permitting it to issue its waterworks system revenue bonds to facilitate repurchase of such property, or the payment of any money judgment involved, or to acquire needed property in lieu of such property or for any or all of such purposes, pledging all or a designated part of the net revenues of its system, and within the discretion of the governing body further secured by a lien upon the properties con-

stituting the system and upon an operating franchise in event of default, by complying with the applicable provisions of the bond and Warrant Law of 1931, and except as otherwise provided in this Act with the provisions of Article 1111 and Articles 1113 to 1118, both inclusive; making provision for the issuance of additional revenue bonds of equal dignity for improvements, extensions, repairs or replacements to the extent and in the manner permitted by the ordinances authorizing revenue bonds then outstanding; containing provisions relating to the issuance of refunding bonds; requiring approval of the Attorney General and the effect of such approval, and registration by the Comptroller of Public Accounts; and enacting other provisions related to the subject; and declaring an emergency. Acts 1945, 49th Leg., p. 605, ch. 349.

2. ENCUMBERED CITY SYSTEM

Art. 1111. Powers

Toll bridges over international boundary river, application of arts. 1111-1118, see art. 1015g.

CHAPTER TWELVE—COMMISSION FORM OF GOVERNMENT

Art.
1164a. Incorporations validated [New].

Art. 1164a. Incorporations validated

In all cities and towns heretofore incorporated, or attempted to be incorporated, under the provisions of Chapter 12, Title 28, Revised Civil Statutes of Texas, 1925, which have functioned as incorporated cities and towns since the date of incorporation, or attempted incorporation, and the boundaries of which have been defined by the Board of Commissioners of such cities and towns, by ordinance duly adopted and placed in the Minutes of such Board of Commissioners, the incorporation of such cities and towns to include the exact territory described in said ordinance so adopted, be and the same is hereby validated, ratified, approved, and confirmed; and the boundaries of said cities and towns as defined in such ordinance shall control and prevail

over the boundaries set forth in the incorporation proceedings of such cities and towns. Acts 1945, 49th Leg., p. 540, ch. 326, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Title of Act:

An Act providing that in all cities and towns heretofore incorporated, or attempted to be incorporated, under the provisions of Chapter 12, Title 28, Revised Civil Statutes of Texas, 1925, which have functioned as incorporated cities and towns since the date of incorporation, or attempted incorporation, and the boundaries of which have been defined by the Board of Commissioners of such cities and towns, by or-

dinance duly adopted and placed in the Minutes of such Board of Commissioners, the incorporation of such cities and towns to include the exact territory described in said ordinance so adopted, be and the same is hereby validated, ratified, approved, and confirmed; and the boundaries of said cities and towns as defined in such ordinance shall control and prevail over the boundaries set forth in the incorporation proceedings of such cities and towns; and declaring an emergency. Acts 1945, 49th Leg., p. 540, ch. 326.

CHAPTER THIRTEEN—HOME RULE

Art.

1175c. Vacancies in offices in cities over 384,000 [New].

Art. 1175. Enumerated powers

Sanitation and health protection, authority of Home Rule Cities not affected by

law prescribing minimum requirements for, see art. 4471—1.

Art. 1175c. Vacancies in offices in cities over 384,000

In case of vacancy from any cause in any elective office of any Home Rule City in this state having a population of three hundred eighty-four thousand (384,000) inhabitants or more according to the last preceding or any future Federal Census, where the charter of such city does not, at such time, provide for the filling of such vacancy, the city council or governing body of such city, by majority vote, shall appoint someone to fill such vacancy for the unexpired term; and pending such appointment such governing body may appoint someone temporarily, for not more than sixty (60) days, to hold such office, which person or persons, as the case may be, shall be qualified in like manner as is then required of the elective official. Provided, however, that whenever any such city holds an election to vote upon proposed amendments to its charter, it shall at such time submit a proposed amendment thereto providing a method for filling any vacancy to elective offices which are not now provided for in said charter. Acts 1945, 49th Leg., p. 77, ch. 54. § 1.

Emergency. Effective April 2, 1945.

Title of Act:

An Act providing that in case of vacancy from any cause in any elective office of any Home Rule City in this state having a population of three hundred eighty-four thousand (384,000) inhabitants or more according to the last preceding or any future Federal Census, where the charter of such city does not, at such time, provide for the filling of such vacancy, the city council or governing body of such city, by majority vote, shall appoint someone to fill such vacancy for the unexpired term; and

pending such appointment may appoint someone temporarily, for not more than sixty (60) days, to hold such office, which person or persons as the case may be shall be qualified in like manner as is then required of the elective official; provided, however, that whenever any such city holds an election to vote upon proposed amendments to its charter, it shall at such time submit a proposed amendment thereto providing a method for filling any vacancy to elective offices which are not now provided for in said charter; and declaring an emergency. Acts 1945, 49th Leg., p. 77, ch. 54.

Art. 1176a. Code of Civil or Criminal ordinances in cities over 5000

Section 1. That any city of this State having a population of more than five thousand (5,000) according to the last preceding Federal Census, whether incorporated under General or Special Law, shall have the power to codify its civil and criminal ordinances and adopt a civil and

criminal code of ordinances, together with appropriate penalties for the violation thereof, which said code when adopted shall have the force and effect of an ordinance regularly enacted with the usual prerequisite of law. As amended Acts 1945, 49th Leg., p. 179, ch. 138, § 1.

Emergency. Effective May 1, 1945.

CHAPTER FIFTEEN—CONSOLIDATION OF CITIES

Art.

1188—(a). Consolidation of cities, towns or villages under 5000 with cities over 5000 [New].

Art. 1188—(a). Consolidation of cities, towns or villages under 5000 with cities over 5000

Upon complying with the provisions hereinafter prescribed in this Chapter, any city, town or village of less than five thousand (5,000) population according to the last preceding Federal Census may be consolidated under one government with an adjoining and contiguous city having a population of more than five thousand (5,000) inhabitants according to the last preceding Federal Census, when both of said municipalities are situated in the same county having a population of more than three hundred thousand (300,000) inhabitants according to the last preceding Federal Census.

This section is hereby declared retroactive to the following extent: All petitions purporting to be signed by qualified voters and presented to the governing body and all ordinances, resolutions, notices, declarations or other acts by the governing body of any city, town or village coming within the applicable provisions of this section, purporting to be in compliance with the statutory provisions contained in Chapter 15 of Title 28, Revised Civil Statutes of 1925; and any notice, declaration, certificate or other act required to be done or purporting to have been done by any Mayor, Councilman, Commissioner, Alderman, City Secretary or City Clerk in compliance with the statutory requisites of Chapter 15 of Title 28, Revised Civil Statutes of 1925, shall have the same legal effect as if there had then existed a law authorizing each act to have been done and authorizing cities, towns and villages of less than five thousand (5,000) population to consolidate. Any election held prior to the enactment of this Act submitting the question of consolidation to the qualified voters of cities or towns authorized to consolidate by this Act, shall in all things be deemed a legal and valid election as if this law had been in existence on the date of such election; provided the requirements of law applicable to consolidation of cities and towns have otherwise been complied with. Added Acts 1945, 49th Leg., p. 71, ch. 50, § 1.

Emergency. Effective March 29, 1945.

Section 2 of the Act of 1945 read as follows:

"If any section, subsection, sentence,

clause or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion of this Act."

Art. 1191. "Consolidation"

Consolidation of city of over 290,000 with other city or town not to effect consolidation of school districts, see art. 2803—1.

CHAPTER TWENTY-ONE—HOUSING

Art. 1269/. Housing Co-operation Law; short title

Payments or gifts by Federal Public Housing authority in lieu of taxes, see art. 5248f.

TITLE 31—CONVEYANCES

Art. 1289. 1104, 625, 549 Notice

Acknowledgment and record of instruments, see article 6602 et seq.

Art. 1294. 1109, 630, 554 Must be witnessed or acknowledged

Authority to take acknowledgments, see article 6602.

TITLE 32—CORPORATIONS—PRIVATE

CHAPTER ONE—PURPOSES

Art. 1302. Purposes.

Subject Charity2A,105

Subdivision No.

Art.

1302d. Livestock, poultry and by-products; feeds, fertilizers, insecticides and fungicides [New].

Art. 1302. 1121, 642, 566. Purposes

2A. Charitable corporations may be created for the purpose, or purposes, of owning and operating non-profit cooperative hospitals, and for the purpose of providing a suitable place in the immediate locality where members and families of members of such corporations may obtain medical, dental, health, surgical, nursing, hospitalization, and related services and benefits. Added Acts 1945, 49th Leg., p. 102, ch. 70, § 1.

105. Corporations may be created for one or more of the following purposes, namely: Religious, Charitable, Literary, Scientific or Educational. Acts 1945, 49th Leg., p. 119, ch. 81, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Subd. 2A. Section 2 of the Act of 1945, which added subd. 2A, provided that corporations authorized by the provisions of the act should not be authorized to be created in cities or towns of more than 2500, according to the last preceding Fed-

eral Census. Section 3 provided that a decision holding the act partially invalid shall not affect the remaining portions of the act.

Subd. 105. Section 2 of the Act of 1945 repealed all conflicting laws and parts of laws to the extent of such conflict.

Art. 1302a. Corporations for owning abstract plants, insuring titles, lending money and dealing in securities, and acting as trustees, etc.; regulation by Insurance Commissioners

Gross premiums tax; separate fund; expenditure

Sec. 24a. To defray the expense of carrying out the provisions of Chapter 40, Acts of the Forty-first Legislature, Regular Session, 1929, Page 77, as amended (Article 1302a, Vernon's Texas Statutes), the State of Texas shall assess and collect not exceeding an additional one per cent (1%) of the gross premiums collected by every insurer on all Title Insurance premiums according to the reports made to the Board of Insurance Commissioners as required by law. Said taxes when collected shall be deposited with the State Treasurer to the credit of a special fund to be designated as the Title Insurance Fund, which fund shall be kept separate and apart from all other funds and moneys in his hands, to be used for the sole purpose of administering this Act; and to be expended only on warrants issued by the Comptroller upon vouchers drawn by the Board of Insurance Commissioners, such vouchers to be accompanied by

itemized sworn statements of the expenditures, and to be in addition to all taxes now imposed, or which may hereafter be imposed, not in conflict with this Section of this Act. Should there be an unexpended balance at the end of any year in said fund, the Board shall reduce the assessment for the succeeding year so that the amount produced and paid into the Treasury will not exceed the amount necessary for the current year to pay all expenses of maintaining the division of the Board of Insurance Commissioners administering the law. As amended Acts 1945, 49th Leg., p. 383, ch. 245, § 1.

Emergency. Effective May 24, 1945.

Section 2 of the amendatory Act of 1945 read as follows: "Should any portion, section, sentence, clause, phrase, or word in this bill be unconstitutional or void, same

shall in nowise affect and render invalid any other portion of this Act, and the Legislature declares that it would have passed and enacted all the remaining portions of this Act."

Art. 1302d. Livestock, poultry and by-products; feeds, fertilizers, insecticides and fungicides

Section 1. Corporations may be formed in the manner provided by general law, to exercise either or both of the following powers:

(a) To buy livestock, poultry, and products of ranch, farm, dairy and creamery, and the by-products thereof, and manufacture, process, and sell such products and by-products.

(b) To buy, manufacture, and sell feeds, fertilizers, insecticides and fungicides.

Sec. 2. Any corporation which includes in its charter or any amendment thereto both of the powers named in Section 1(a) and (b) hereof shall pay the franchise tax provided by law for each of said powers or purposes. No corporation authorized under the provisions of this Act shall be permitted to own or operate more than one establishment or business under the same charter without paying the chain store tax provided in Chapter 400, Acts of the First Called Session of the Forty-fourth Legislature, as amended,¹ on each such establishment or place of business from which it makes sales of any such products or by-products. This Section shall not apply to associations organized under Chapter 8, Title 93, of the Revised Civil Statutes of Texas of 1925, controlling Marketing Associations. Acts 1945, 49th Leg., p. 390, ch. 252.

¹ Vernon's Ann.P.C. art. 1111d.

Effective 90 days after June 5, 1945, date of adjournment.

Title of Act:

An Act providing for the creation of corporations with power (a) to buy livestock, poultry and products of ranch, farm, dairy and creamery, and the by-products thereof, and manufacture, process, and sell such products and by-products; and (b) to buy, manufacture, and sell feeds, fertilizers, insecticides, and fungicides; and providing that corporations which by their charters or amendments thereto adopt both of said powers shall pay franchise taxes as provided by law for each of said powers; providing no such corporation shall be permitted to own or operate more than one

establishment or business under the same charter without paying the chain store tax provided in Chapter 400, Acts of the First Called Session of the Forty-fourth Legislature, as amended, on each such establishment or place of business from which it makes sales of any such products or by-products; providing that the provisions of this Act relative to the payment of franchise taxes and chain store taxes shall not apply to corporations organized under Chapter 8, Title 93, Revised Civil Statute of Texas of 1925, controlling Marketing Associations; and declaring an emergency. Acts 1945, 49th Leg., p. 390, ch. 252.

CHAPTER TWO—CREATION OF CORPORATIONS

Art. 1303b. Corporations to deal in securities without banking or insurance privileges

A private corporation may be formed for any one or more of the following purposes, without banking or insurance privileges: to accumulate and loan money; to sell and deal in notes, bonds and securities; to act as Trustee under any lawful express trust committed to it by contract or will, or under appointment of any court having jurisdiction of the subject matter, and as agent for the performance of any lawful act; to subscribe for, purchase, invest in, hold, own, assign, pledge and otherwise deal in and dispose of shares of capital stocks, bonds, mortgages, debentures, notes and other securities or obligations, contracts and evidences of indebtedness of foreign or domestic corporations not competing with each other in the same line of business; to borrow money or issue debentures for carrying out any or all purposes above enumerated. Provided that the power and authority herein conferred shall in no way affect any of the provisions of the anti-trust laws of this state. As amended Acts 1945, 49th Leg., p. 96, ch. 67, § 1.

Emergency. Effective April 10, 1945.

CHAPTER NINE—RELIGIOUS, CHARITABLE AND EDUCATIONAL

1. RELIGIOUS AND CHARITABLE

Art.

1396a. Meetings outside state by religious, charitable, benevolent or educational corporations [New].

1. RELIGIOUS AND CHARITABLE

Art. 1396. 1212, 713, 637 Powers

Creation of corporations for religious, charitable, literary, scientific or educational purposes, see article 1302, subd. 105.

Art. 1396a. Meetings outside state by religious, charitable, benevolent or educational corporations

That corporations organized under the laws of this State for religious, charitable, benevolent, or educational purposes (other than colleges, universities, academies, or seminaries), in addition to all other powers and privileges now conferred by the laws of this State, may hold meetings of members, delegates, representatives or messengers and elect officers and trustees within or without the State of Texas. Acts 1945, 49th Leg., p. 105, ch. 73, § 1.

Emergency. Effective April 10, 1945.

Title of Act:

An Act to permit corporations organized under the laws of this State, for religious, charitable, benevolent, or educational purposes (other than colleges, universities,

academies, or seminaries), to hold meetings and elect officers and trustees, within or without the State of Texas; and declaring an emergency. Acts 1945, 49th Leg., p. 105, ch. 73.

CHAPTER SEVENTEEN—TRUST COMPANIES AND INVESTMENTS

LOAN AND BROKERAGE COMPANIES

Art. 1524a. Corporations for loaning money and dealing in bonds and securities without banking and discounting privileges; regulations

Regulations as to sale of securities

Sec. 7. All bonds, notes, certificates, debentures, or other obligations sold in Texas by any corporation affected by a provision of this Act shall be secured by securities of the reasonable market value, equaling at least at all times the face value of such bonds, notes, certificates, debentures, or other obligations. If such corporation sells in Texas, bonds, notes, certificates, debentures, or other obligations upon which it receives installment payments, such bonds, notes, certificates, debentures and other obligations shall be secured at all times by securities having the reasonable market value equal to the withdrawal or cancellation value of such obligations outstanding. Said securities shall be placed in the hands of a corporation having trust powers approved by the Banking Commissioner of Texas as Trustee under a trust agreement, the terms of which shall be approved in writing by the Banking Commissioner of Texas, or at the option of any such corporation which sells in Texas, bonds, notes, certificates, debentures, or other obligations upon which it receives installment payments, such corporation may upon application to, and approval by, the Banking Commissioner of Texas deposit securities having a reasonable market value equal to the withdrawal or cancellation value of such obligations outstanding with the State Treasurer of Texas in lieu of such deposits with a Trustee as set forth hereinabove, provided that, in the event such deposit is made with the State Treasurer of Texas in lieu of such Trustee: (1) Such corporation shall file a certified statement of reserve liability and detailed list of securities so deposited, semi-annually with the Banking Commissioner of Texas, which certification shall be made by a Certified Public Accountant, who shall be approved by and be satisfactory to the Banking Commissioner. The corporation shall pay a fee of Fifteen Dollars (\$15) for filing each such statement. (2) Said securities shall be deposited with the State Treasurer under a trust agreement, the terms of which shall be approved by the Banking Commissioner.

It is further provided that if any corporation, transacting business under this Act, shall have heretofore deposited securities with a corporation having trust powers under a trust agreement as provided hereinabove desires to avail itself of the option to deposit securities with the State Treasurer of Texas in lieu of such Trustee, it shall first secure a written certificate from the Banking Commissioner of Texas approving said securities on deposit with the Trustee as being eligible and sufficient for deposit with the State Treasurer, and it shall file a copy of said certificate with the State Treasurer of Texas, and with the said Trustee whereupon said Trustee shall deliver said securities so approved to the State Treasurer of Texas together with the trust agreement and/or agreements relating thereto, who shall issue his receipt therefor to said Trustee, furnishing a copy thereof to the corporation owning the same, which said receipt of the State Treasurer of Texas shall fully and finally relieve, acquit, and discharge the said Trustee of all responsibility and liability under such trust agreement, and/or agreements, where upon said

State Treasurer shall be considered as, and be substituted as, Trustee instead and in the place of the original Trustee.

In the event that the Banking Commissioner approves part of said securities with the said Trustee as being sufficient and eligible for deposit with the State Treasurer, but does not approve all of said securities with said Trustee, and/or in the event there is a deficiency of securities with said Trustee, the corporation owning said securities and desiring to avail itself of its option of depositing said securities with the State Treasurer, shall deposit with the State Treasurer of Texas a sufficient amount of eligible securities as defined herein securing the approval of the Banking Commissioner of Texas as to said securities so that the amount of securities so deposited together with the amount of securities with said Trustee that are approved by the Banking Commissioner as being eligible and sufficient have the reasonable market value equal to the withdrawal or cancellation value of such obligations then outstanding. Whereupon the said Trustee shall, as hereinabove set forth, deliver to the State Treasurer of Texas the securities in its hands, taking the receipt of the State Treasurer therefor, and in such case such Trustee shall be fully and finally relieved, acquitted, and discharged of all responsibility and liability under such trust agreement, and/or agreements.

Any such corporation which sells in Texas, bonds, notes, certificates, debentures or other obligations upon which it receives installment payments, which upon the effective date of this Act has securities deposited with a Trustee hereunder, may, with the written consent of the Banking Commissioner continue under said trust agreement, and/or agreements as to bonds, notes, certificates, debentures or other obligations already sold in Texas upon which it receives installment payments, and avail itself of the option to deposit such securities as to future sales of said obligations with the State Treasurer of Texas by complying with this Act in the same manner that a corporation hereafter organized would be required to comply with this Act.

All trust agreements hereafter made as to any securities placed with the State Treasurer under this Act shall provide that such securities may be substituted with securities of equal value by the filing by the corporation with the State Treasurer of a certificate of authorization to do so from the Banking Commissioner of Texas, and that any of said securities may be withdrawn by the corporation from the State Treasurer by the filing with the State Treasurer of a certificate issued by the Banking Commissioner that the withdrawing of the particular securities is authorized by the Banking Commissioner, and that its withdrawal will not reduce the amount of securities below the amount required by this Act. Provided, that before selling or offering for sale on the installment plan in Texas any such bonds, notes, certificates, debentures, or other obligations, such corporation shall file with the Banking Commissioner specimen copies of such bonds, notes, certificates, debentures or other obligations. Unless within sixty (60) days after the filing of any such specimen copy the Banking Commissioner issues a notice to such corporation of a hearing to determine whether such instrument is fraudulent, unreasonable or inequitable, or has an unreasonable or inequitable cash surrender value, the same shall be deemed to have been approved by the Banking Commissioner. But if, after hearing pursuant to notice issued within said period of sixty (60) days, the Banking Commissioner should find and determine that any such bond, note, certificate, debenture, or other obligation is either fraudulent, unreasonable, or inequitable, or has an unreasonable or inequitable cash surrender value, such corporation shall have no right to sell or offer for sale in the State of Texas

such bond, note, certificate, debenture or other obligation so found to be fraudulent, unreasonable, or inequitable, or has an unreasonable or inequitable cash surrender value. Provided, that any such corporation may have such finding reviewed in the District Court of Travis County, Texas, by filing suit against the Banking Commissioner in such Court at any time within sixty (60) days after receiving notice of such finding. In such suit such corporation shall be entitled to a trial de novo on the issues on which the Banking Commissioner shall have made such adverse findings. If as the result of such trial the issues shall be determined favorably to such corporation, the adverse findings of the Banking Commissioner shall have no further binding force or effect; and in that event, the right to sell such notes, bonds, or other obligations may be protected by injunction issued in said cause. Provided, that either party shall have the right of appeal according to statutes governing appeals in civil cases. Provided further that the requirements contained herein obligating corporations selling notes, bonds, certificates, debentures, or other obligations, whether in single payment or on the installment plan, to secure said issuance and sale by securities of a reasonable market value equal to the face of single payment certificates or to the withdrawal or cancellation value of installment payment certificates, shall not apply to corporations having a minimum capital of Fifty Thousand Dollars (\$50,000), where such sales are made to debtors who are at the time indebted to the issuer; conditioned the face amount sold shall not exceed the amount of the then debt of purchaser to issuer; and further conditioned the bonds, notes, certificates, debentures and other obligations sold in Texas provide for maturity of the indebtedness at a date not later than the final maturity date of the indebtedness of purchaser to issuer; and conditioned further that the issuance and sale of such certificates, whether collateralized or not, shall obligate the Banking Commissioner of Texas to make examinations to the same extent as if collateral were required.

All cash or securities left with the State Treasurer in compliance with Article 696, Revised Civil Statutes of 1925, shall be considered as part of the collateral required under this section.

All bonds, notes, certificates, debentures, or other obligations, sold or offered for sale in Texas by such corporation shall definitely describe the character of collateral securing the payment of such obligation.

In the event any such corporation shall sell or offer for sale in Texas, any bonds, notes, certificates, debentures, or other obligations without complying with this section, such conduct shall constitute grounds for the forfeiture of its charter and for receivership at the suit of the Attorney General which suit shall be brought upon the request of the Banking Commissioner of Texas. As amended L.1945, 49th Leg., p. 263, ch. 194, § 1.

Emergency. Effective May 10, 1945.

Application of examination provisions

Sec. 13. The provisions of this Act requiring or authorizing an examination by the Banking Commissioner of Texas shall not apply to a corporation whose only written obligations outstanding consist of notes or other instrument evidencing a debt payable to a stockholder of the debtor corporation or notes or other instrument evidencing a debt payable to any bank, insurance company or other financial institutions. Add-Acts 1945, 49th Leg., p. 309, ch. 224, § 1.

Emergency. Effective May 23, 1945.

CHAPTER NINETEEN "A"—NON-PAR CORPORATIONS

Art. 1538h. May Amend Charter

Any private corporation for profit, other than corporations authorized to conduct a banking or insurance business, except as herein stated, having authorized shares with par or face value or shares without nominal or par value, or both, may, by vote of the holders of a majority of its outstanding stock, entitled to vote at any annual meeting or at any special meeting called and held for the purpose, amend its charter as follows:

(a) So as to change its shares of stock with par or face value, or any class or classes thereof, into the same number or into a large or smaller number of shares without nominal or par value; or

(b) So as to change its shares of stock without nominal or par value or any class or classes thereof, into the same number or into a larger or smaller number of shares with par or face value, provided that all the provisions of Article 1308 with reference to subscription to and payment for capital stock have first been complied with; and further provided that any capital stock, legal reserve life insurance company with the approval of the Life Insurance Commissioner, may amend its charter in the manner set out above so as to change its shares of stock without nominal or par value into the same, or a larger or smaller number of shares, with par or face value, or into the same, or a larger or smaller number of shares without nominal or par value, or so as to increase or decrease the total amount paid in for its stock, whether with or without nominal or par value, to any amount not less than One Hundred Thousand Dollars (\$100,000.00); and provided further that, in case any such insurance company reduces the amount paid for its capital stock without nominal or par value to less than Two Hundred and Fifty Thousand Dollars (\$250,000.00), the amount of the reduction below Two Hundred and Fifty Thousand Dollars (\$250,000.00) may be used only for the payment of excess war mortality claims if and when approved by the Life Insurance Commissioner, and if not used for that purpose, shall be placed in a permanent surplus fund for the protection of the policyholders, or, by amendment, returned to the company's capital.

(c) Provided that all its shares in any one class shall be changed on the same basis, or so as to change its shares without nominal or par value, or any class or classes thereof, into shares of par or face value or into a larger or smaller number of shares without nominal or par value provided that all shares in any one class shall be changed on the same basis; and provided further that except as herein provided, that the preferences, rights, limitations, privileges and restrictions granted or imposed with respect to any shares of outstanding stock shall not be impaired, diminished or changed without the consent of the holder thereof. Whenever any such amendment shall be made effective, all the shares with par or face value of the class or classes specified in said amendment shall be deemed for all purposes to have been converted, on the basis in said amendment stated, shares without nominal or par value of the class or classes specified, and all of the shares without nominal or par value changed into shares with par or face value or changed into a larger or smaller number of shares without nominal or par value shall be deemed for all purposes to have been converted, on the basis in said amendment stated, into such class or classes of shares with par or face value or into such larger or smaller number of shares without nominal or par value, and the corporation shall, in writing, notify all holders of shares of stock of the class or classes affected and shall thereafter, when-

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ever any certificate for any such shares is presented for transfer or exchange, cancel the same, and in its place, issue, on the basis in said amendment stated, a new certificate, which shall conform to the provisions of Article 1538b hereof, or the applicable insurance statutes, as the case may be. As amended Acts 1945, 49th Leg., p. 104, ch. 72, § 1.

Emergency. Effective April 10, 1945.

TITLE 33—COUNTIES AND COUNTY SEATS

CHAPTER SIX—COUNTY BOUNDARIES

Art. 1606. 1400, 822 Boundaries as established, adopted, and acts creating continued in force

Jim Hogg County. Acts 1945, 49th Leg., ch. 60, p. 84, amended Acts 1913, 33rd Leg., p. 133, ch. 73 creating Jim Hogg County, so as to clearly define the location of the

east line of Jim Hogg County, which is a common boundary to both Jim Hogg and Brooks Counties.

TITLE 34—COUNTY FINANCES

2. COUNTY AUDITOR

Art. 1666. Budget

Acts 1939, 46th Leg., p. 144, § 1, as amended Acts 1945, 49th Leg., p. 93, ch. 65, § 1, effective April 9, 1945, reads as follows:

"Section 1. The County Auditor in all counties having a population in excess of two hundred and twenty-five thousand (225,000) as shown by the last preceding or any future United States Census shall serve as the budget officer for the Commissioners Courts in each county, and on or immediately after January 1st of each year he shall prepare a budget to cover all proposed expenditures of the county government for the current fiscal and calendar year. Such budget shall be carefully itemized so as to make possible as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget shall be so prepared as to show with reasonable accuracy each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of such projects. The budget shall contain a complete financial statement of the county, showing all outstanding obligations of the county, the cash on hand to the credit of every and each fund of the county government, the funds received from all sources during the previous year, the funds and revenue estimated by the Auditor to be received from all sources during the previous year, the funds and revenue estimated by the Auditor to be received from all sources during the ensuing year, together with a statement of all accounts and contracts on which sums are due to or by the county as of December 31st of the year preceding, except taxes and court costs. Until a budget has been adopted by the Commissioners Court no payments shall be made during the current year except for emergencies and for obligations legally incurred prior to January 1st of such year for salaries, utilities, materials, and supplies. A copy of the budget shall be filed with the Clerk of the County Court, and it shall be available for inspection by the taxpayer.

"The Commissioners Court in each county shall provide for a public hearing on the county budget, which hearing shall take place on some date to be named by the Commissioners Court within seven (7) calendar days after the filing of the budget and prior to January 31st of the current year. Public notice shall be given that on the date of said hearing the budget as prepared by the County Auditor will be

considered by the Commissioners Court. Said notice shall name the hour, the date, and the place the hearing shall be conducted, and shall be published once in a newspaper of general circulation in said county. Any taxpayer of such county shall have the right to be present and participate in said hearing. At the conclusion of the hearing, the budget as prepared by the County Auditor shall be acted upon by the Commissioners Court. The Court shall have authority to make such changes in the budget as in its judgment the facts and the law warrant and the interest of the taxpayers demand, provided the amounts budgeted for current expenditures from the various funds of the county shall not exceed the balances in said funds as of January 1st plus the anticipated revenue for the current year for which the budget is made, as estimated by the County Auditor. Upon final approval of the budget by the Commissioners Court, a copy of such budget as approved shall be filed with the County Auditor, the Clerk of the Court, and the State Auditor, and no expenditures of the funds of the county shall thereafter be made except in strict compliance with said budget. Said Court may upon proper application transfer an existing budget surplus during the year to a budget of like kind and fund, but no such transfer shall increase the total of the budget.

"In like manner when any bond issue of the county is submitted at an election or anticipation warrants are to be issued against future revenues and a tax levied for said warrants a budget of proposed expenditures shall be adopted and upon the receipt of the proceeds of the sale of any bonds or warrants expenditures shall be made therefrom in the manner hereinafter provided for expenditures for general purposes.

"Upon the adoption of any general or special budget as hereinbefore provided and its certification, the County Auditor of each county thereupon shall open an appropriation account for each main budgeted or special item therein and it shall be his duty to charge all purchase orders or requisitions, contracts, and salary and labor allowances to said appropriations. Requisitions issued or contracts entered into conformably to the laws of the State of Texas by proper authority for work, labor, services, or materials and supplies shall nevertheless not become effective and binding unless and until there has been issued in connection with such item the certificate of said County Auditor

that ample budget provision has been made in the budget therefor and funds are, or will be, on hand to pay the obligation of the county or officer when due. The amount set aside in any budget for any purchase order or requisition, contract, special purpose, or salary and labor account shall not be available for allocation for any other purpose unless an unexpended balance remains in the account after full discharge of the obligation or unless the requisition, contract, or allocation has been cancelled in writing by the Commissioners Court or county officer for a valid reason.

"The County Auditor shall make to the Commissioners Court not less than monthly a complete report showing the financial condition of the county. Said report shall be in such form as may be prescribed by said County Auditor and shall set forth all facts of interest concerning the financial condition of the county and shall contain a consolidated balance sheet. The report shall contain a complete statement of the balances on hand at the beginning and close of the month and the aggregate receipts to and aggregate disbursements from each

fund; the transfers to and from each fund, the bonded and warrant indebtedness with the rates of interest due thereon, a summarized budget statement showing for each officer, department, or institution budgeted the expenses paid from the budget during the month and for the period of the fiscal year inclusive of the month for which said report is made, also the encumbrances against said budgets, and the amounts available for further expenditures, together with such other information as such officer may deem necessary to reflect the true condition of the finances of such county or the Commissioners Court thereof may require. The County Auditor shall publish once in a daily newspaper published in said county a condensed copy of said report showing the condition of funds and budgets together with such recommendations as he may deem desirable.

"In the preparation of the budget, the County Auditor shall have authority to require of any district, county, or precinct officer of the county such information as may be necessary to properly prepare the budget."

TITLE 35—COUNTY LIBRARIES

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| <p>Art.
1702b—3. Law libraries in certain counties of 50,000 to 78,000; County Law Library Fund [New].</p> | <p>2. LAW LIBRARY</p> | <p>1702b—4. Law libraries in counties of 30,000 to 39,000; County Law Library Fund; rules [New].</p> |
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2. LAW LIBRARY

Art. 1702—3. Law libraries in counties of 50,000 to 78,000; County Law Library Fund

Section 1. The Commissioners Courts of all counties within this state having a population of not less than 50,000 inhabitants nor more than 78,000 inhabitants, according to the last preceding Federal Census, and in which there is located no Court of Civil Appeals, shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a County Law Library.

Sec. 2. For the purpose of establishing County Law Libraries after the entry of such order, there shall be taxed, collected, and paid as other costs, the sum of One Dollar (\$1.00) in each civil case, except suits for delinquent taxes, hereafter filed in every County or District Court; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the clerks of the respective courts in said counties and paid by said clerks to the County Treasurer to be kept by said Treasurer in a separate fund to be known as the "County Law Library Fund." Such fund shall be administered by said courts for the purchase and maintenance of a Law Library in a convenient and accessible place, and said fund shall not be used for any other purpose.

Sec. 3. Said courts are granted all necessary power and authority to make this Act effective, to make reasonable rules in regard to said library and the use of the books thereof, and to carry out the terms and provisions of this Act. Acts 1945, 49th Leg., p. 229, ch. 173.

Emergency. Effective May 8, 1945.

Section 4 of the Act read as follows: "This Act shall not have the effect of repealing or modifying any existing law in regard to County Law Libraries; but such Acts shall remain in full force and effect as to all counties affected thereby; and this Act shall be cumulative."

Title of Act:

An Act providing that all counties within this state having a population of not less than 50,000 inhabitants nor more than 78,000 inhabitants, according to the last

preceding Federal Census, and in which there is located no Court of Civil Appeals, may, upon an order being made by their Commissioners Courts for this purpose, provide for and maintain a County Law Library; providing for the funds for said library; granting to said courts all necessary power and authority to make this Act effective; providing that said Act shall be cumulative; and declaring an emergency. Acts 1945, 49th Leg., p. 229, ch. 173.

Art. 1702b—4. Law libraries in counties of 30,000 to 39,000; County Law Library Fund; rules

Section 1. The Commissioners Courts of all counties within this state, having a population of not less than thirty thousand (30,000) inhabitants nor more than thirty-nine thousand (39,000) inhabitants, according to the last preceding Federal Census, and in which there is located no Court of Civil Appeals, shall have the power and authority by first en-

tering an order for that purpose, to provide for, maintain and establish a county law library.

Sec. 2. For the purpose of establishing county law libraries after the entry of such order, there shall be taxed, collected, and paid as other costs the sum of One Dollar (\$1.00) in each civil case, except suits for delinquent taxes, hereafter filed in every County or District Court; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the clerks of the respective courts in said counties and paid by said clerk to the county treasurer to be kept by said treasurer in a separate fund to be known as the "County Law Library Fund." Such fund shall be administered by said courts for the purchase and maintenance of a law library in a convenient and accessible place, and said fund shall not be used for any other purpose.

Sec. 3. Said courts are granted all necessary power and authority to make this Act effective, to make reasonable rules in regard to said library and the use of the books thereof, and to carry out the terms and provisions of this Act. Acts 1945, 49th Leg., p. 230, ch. 174.

Emergency. Effective April 30, 1945.

Section 4 of the Act of 1945 read as follows: "This Act shall not have the effect of repealing or modifying any existing law in regard to county law libraries; but such Acts shall remain in full force and effect as to all counties affected thereby; and this Act shall be cumulative."

Title of Act:

An Act providing that all counties within this state, having a population of not less than thirty thousand (30,000) inhabitants nor more than thirty-nine thousand (39,000)

inhabitants, according to the last preceding Federal Census, and in which there is located no Court of Civil Appeals, may, upon an order being made by their Commissioners Courts for this purpose, provide for and maintain a county law library; providing for the funds for said library; granting to said courts all necessary power and authority to make this Act effective; providing that said Act shall be cumulative; and declaring an emergency. Acts 1945, 49th Leg., p. 230, ch. 174.

TITLE 40—COURTS—DISTRICT

CHAPTER TWO—DISTRICT CLERK

Art. 1899. 1694, 1087, 1107 To record proceedings

Certified copies of records furnished free to ex-service men to support claims against United States, see art. 1939a.

CHAPTER THREE—POWERS AND JURISDICTION

Art.

1906a. Computation of amount in controversy where parties properly joined [New].

Art. 1906. 1705, 1098, 1117 Original jurisdiction

Computation of amount in controversy for jurisdictional purposes where parties properly joined in suit, see article 1906a.

Art. 1906a. Computation of amount in controversy where parties properly joined

Where two or more persons originally and properly join in one suit, the suit for jurisdictional purposes shall be treated as if one party were suing for the aggregate amount of all their claims added together, exclusive of interest and cost; provided that this statute shall not prevent jurisdiction from attaching on any other ground. Provided further, that the passage of this Act shall not affect any pending litigation. Acts 1945, 49th Leg., p. 543, ch. 329, § 1.

Emergency. Effective June 14, 1945.

Title of Act:

An Act giving a method of computing amount in controversy for jurisdictional

purposes, where parties properly join in one suit; and declaring an emergency. Acts 1945, 49th Leg., p. 543, ch. 329.

TITLE 41—COURTS—COUNTY

CHAPTER ONE—THE COUNTY JUDGE

Art.

1934a—10. Stenographer or clerk for county judges in counties of 7500 to 17,500; salary [New].

Art. 1934a—10. Stenographer or clerk for county judges in counties of 7500 to 17,500; salary

In any county in this State whose population as shown by the last preceding Federal census is not more than seventeen thousand, five hundred (17,500) and not less than seven thousand, five hundred (7,500), the County Judge may, with the approval of the Commissioners Court, employ a stenographer or clerk at a salary not exceeding One Hundred and Twenty-five Dollars (\$125) per month, such salary to be fixed by the Commissioners Court and paid monthly by county warrants drawn on the County General Fund under the orders of the Commissioners Court of such county. Acts 1945, 49th Leg., p. 304, ch. 220, § 1.

Emergency. Effective May 18, 1945.

Title of Act:

An Act providing for the appointment and salary of stenographers or clerks for

County Judges in certain counties in Texas; and declaring an emergency. Acts 1945, 49th Leg., p. 304, ch. 220.

CHAPTER TWO—COUNTY CLERK

Art. 1939a. Certified copies of records furnished free to members of armed forces, auxiliaries, maritime service and merchant marine

Article 1. Any person, his guardian, or his dependents or heirs at law who is eligible to make a claim against the Government of the United States of America as a result of service in the Armed Forces of the United States of America, or the services auxiliary thereto, including the Maritime Service and the Merchant Marine, shall upon the request therefor by such person, his guardian, or his dependents, or heirs at law, be furnished without cost a certified and authenticated copy or copies of any instrument, public record or document necessary to prove or establish such claim, which is in the custody or on file in the office of County Clerks, District Clerks and other public officials of this State, by such officials. Provided, the issuance of such certified or authenticated copy or copies by such officials shall not be considered in determining the maximum fee of such offices.

Art. 2. The rights conferred by this Act shall extend to any person, his guardian or his dependents, or heirs-at-law who are eligible by reason of service heretofore or hereafter rendered in the Armed Forces of the United States of America, or the services auxiliary thereto, including the Maritime Service and the Merchant Marine, when such person, his guardian, or his dependents, or heirs-at-law are eligible to make claim against the Government of the United States of America as a result of such service. As amended Acts 1945, 49th Leg., p. 587, ch. 346, § 1.

Emergency. Effective June 16, 1945.

Section 2 of the Act of 1945 repealed all laws and parts of laws in conflict therewith to the extent of the conflict only.

Section 3 of the acts of 1939 and 1943 repeals all conflicting laws and parts of laws.

CHAPTER THREE—POWERS AND JURISDICTION

Art. 1949. 1763, 1154, 1161 Exclusive original jurisdiction

Computation of amount in controversy for jurisdictional purposes where parties properly joined in suit, see art. 1906a.

Art. 1950. 1764, 1155, 1162 Concurrent original jurisdiction

Computation of amount in controversy for jurisdictional purposes where parties properly joined in suit, see art. 1906a.

CHAPTER FIVE—MISCELLANEOUS PROVISIONS

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

Art.

1970—330. Titus County Court; jurisdiction diminished; district court's jurisdiction; prosecutor in misdemeanor cases [New].

Art.

1970—331. Franklin county; jurisdiction of courts; duties and fees of county attorney [New].

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 in matters of eminent domain, 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.

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, 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 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 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 or criminal 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.

Sec. 3. The County Attorney of Titus County shall represent the State in all misdemeanor cases before the District Court of Titus County, and shall receive therefor the same fees to which he would be entitled under the law as County Attorney had said cases been tried in the County Court.

Sec. 4. The Clerk of the County Court of Titus County is, and he is hereby required within twenty (20) days after this Act takes effect to file with the Clerk of the District Court of said County all original papers in cases here transferred to the said District Court, and all Judge's dockets and certified copies of any interlocutory judgment, or other order entered in the minutes of the County Court in said cases so transferred; and the District Clerk shall immediately docket all

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such cases on the docket of the District Court of Titus County in the same manner and place as each stands on the docket of the County Court. It shall not be necessary that the District Clerk refile any papers theretofore filed by the County Clerk, nor shall he receive any fees for the filing of the same, but papers in said case bearing the file mark of the County Clerk, prior to the time of said transfer, shall be held to have been filed in the case as of the date filed without being refiled by the District Clerk. Said County Clerk in cases so transferred shall accompany the papers with a certified bill of cost and against all cost deposits, if any, the County Clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the District Clerk as a deposit in the particular case for which the same was deposited. Credit shall also be given the litigants for all jury fees paid in the County Court. Acts 1945, 49th Leg., p. 225, ch. 169.

Emergency. Effective May 7, 1945.

Title of Act:

An Act to diminish the civil and criminal jurisdiction of the County Court of Titus County, Texas, and to conform the jurisdiction of the District Court of such County to such change; to preserve the jurisdiction and power of the County Court of Titus County, Texas, over certain final judgments rendered prior to the passage of this Act; to require the county clerk of such County to transmit all papers in

pending civil and criminal cases to the District Court of said County; to continue in effect the filing date of papers previously filed in the County Court in said pending cases; to fix fees that the District Clerk of such County will be authorized to charge in connection with filing all papers so transmitted to him; to provide for the County Attorney of Titus County, Texas, to represent the State in misdemeanor cases in the District Court and fixing fees; and declaring an emergency. Acts 1945, 49th Leg., p. 225, ch. 169.

Art. 1970—331. Franklin county; jurisdiction of courts; duties and fees of county attorney

Section 1. The County Court of Franklin County, Texas, shall retain and continue to have and exercise the general jurisdiction in matters of eminent domain, 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.

Sec. 2. The District Court having jurisdiction in Franklin County, Texas, 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, 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 be and the same are hereby transferred to the District Court having jurisdiction in Franklin County, Texas, and all writs and process heretofore issued by or out of said County Court in all pending civil or criminal cases be and the same are hereby made returnable to the District Court sitting in Franklin County, Texas. However, there shall not be transferred to said District Court jurisdiction over any judgments, either in civil or criminal 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.

Sec. 3. The County Attorney of Franklin County shall represent the State in all misdemeanor cases before the District Court of Franklin County, Texas, and shall receive therefor the same fees to which he would be entitled under the law as County Attorney had said cases been tried in the County Court.

Sec. 4. The Clerk of the County Court of Franklin County, Texas, is and he is hereby required within twenty (20) days after this Act takes effect to file with the Clerk of the District Court of said County all original papers in cases here transferred to the said District Court, and all judges' dockets and certified copies of any interlocutory judgment, or other order entered in the minutes of the County Court in said cases so transferred; and the District Clerk shall immediately docket all such cases on the docket of the District Court of Franklin County, Texas, in

the same manner and place as each stands on the docket of the County Court. It shall not be necessary that the District Clerk refile any papers theretofore filed by the County Clerk, nor shall he receive any fees for the filing of the same, but papers in said case bearing the file mark of the County Clerk, prior to the time of said transfer, shall be held to have been filed in the case as of the date filed without being refiled by the District Clerk. Said County Clerk in cases so transferred shall accompany the papers with a certified bill of cost; and against all cost deposits, if any, the County Clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the District Clerk as a deposit in the particular case for which the same was deposited. Credit shall also be given the litigants for all jury fees paid in the County Court. Acts 1945, 49th Leg., p. 316, ch. 231.

Emergency. Effective May 23, 1945.

Title of Act:

An Act to diminish the civil and criminal jurisdiction of the County Court of Franklin County, Texas, and to conform the jurisdiction of the District Court of such County to such change; to preserve the jurisdiction and power of the County Court of Franklin County, Texas, over certain final judgments rendered prior to the passage of this Act; to require the County Clerk of such County to transmit all papers

in pending civil and criminal cases to the District Court of said County; to continue in effect the filing date of papers previously filed in the County Court in said pending cases; to fix fees that the District Clerk of such County will be authorized to charge in connection with filing all papers so transmitted to him; to provide for the County Attorney of Franklin County, Texas, to represent the State in misdemeanor cases in the District Court and fixing fees; and declaring an emergency. Acts 1945, 49th Leg., p. 316, ch. 231.

TITLE 42—COURTS—PRACTICE IN DISTRICT AND COUNTY

CHAPTER SIX—CERTAIN DISTRICT COURTS

3. JURY FOR THE WEEK

Art. 2118. 5165-6-7-8-9 Jury for the week

On Monday, or other day, of each Court week, when a jury has been summoned and there are jury trials, the Court shall select a sufficient number of qualified jurors, in his discretion, to serve as jurors for the week. Such jurors shall be selected from the names included in the jury list for the week, if there be the requisite number of such in attendance who are not excused by the Court, but if such number be not in attendance at any time, the Court shall direct the sheriff to summon a sufficient number of qualified men to make up the requisite number of jurors, provided that in counties governed by the jury wheel law, sufficient names of qualified jurors, whom the sheriff will summon, shall be drawn from the jury wheel for jury trials in the district and county Courts, under order of the Court, to fill the panel for the week, unless the parties in any cause, in writing duly filed, or by stipulation in open Court noted of record, waive the said use of the jury wheel, and all said extra jurors summoned in either way shall be discharged when their services are no longer needed. The Court may adjourn the whole number of jurors for the week or any part thereof, to any subsequent day of the term, but the jurors shall not be paid for the time they may stand adjourned. As amended Acts 1945, 49th Leg., p. 314, ch. 229, § 1.

Emergency. Effective May 23, 1945.

Art. 2122. 5218-19-20 Pay of jurors

Each Juror in the district or county court or county court at law shall receive Four Dollars (\$4) for each day or fraction of a day that he attends court as such juror, to be paid out of the jury fund of the county. Check drawn by Clerk of the District Court of the County on the Jury Fund may be transferred by endorsement and delivery and shall be receivable at par from the holder for all county taxes. The same per diem shall be paid to all persons responding to the process of the court but who are excused by the court from jury service for any cause, after being tested on their voir dire. As amended Acts 1945, 49th Leg., p. 371, ch. 239, § 3.

Emergency. Effective May 24, 1945.

Section 1 of the Act of 1945 amends Vernon's Ann.Crim.Code, art. 625, section 2 amends act 1056, Section 4 repeals Art. 1057.

CHAPTER 13.—GENERAL PROVISIONS

2. RECEIVERS

Art.
2320b. Receiver for undivided mineral interest owned by absentee of unknown address [New].

3. OFFICIAL COURT REPORTER

2324a. Powers as to depositions, commissions, oaths and affidavits [New].
2326d—1. Salaries in districts of four or more counties with valuations of \$230,000,000 [New].

2. RECEIVERS

Art. 2320b. Receiver for undivided mineral interest owned by absentee of unknown address

Section 1. In an action filed in the District Court by any person, firm or corporation having, claiming or owning an undivided mineral interest in any tract of land in the State of Texas, in which it is made to appear that one or more of the defendants in such action are nonresidents of the State of Texas, or persons whose place of residence is unknown and who have absented themselves for at least five (5) years successively next preceding the filing of said action, and who have, claim or own an undivided mineral interest in said land and have not paid taxes on said mineral interests or rendered same for taxes within said five-year period, the District Court shall have power to appoint a receiver of said undivided mineral interest owned by such defendant, provided a duly verified petition is filed and satisfactory proof is made that the plaintiff or plaintiffs have made diligent but unsuccessful effort to locate such defendants, and that the plaintiff or plaintiffs will suffer substantial damage or injury unless such receiver is appointed.

Sec. 2. Such receiver, under the orders of the court, shall have power and authority to execute and deliver to a lessee a mineral lease on such outstanding mineral interest, upon such terms and conditions as may be prescribed by the court, and the moneys, if any, paid to such receiver, after the payment of the court costs, shall be by him deposited in the registry of the court for the use and benefit of such nonresident or unknown owners, and thereupon, the court may immediately discharge such receiver, and any future payments paid under such mineral lease shall be paid directly into the registry of the court and impounded for the use and benefit of such nonresident and unknown owners.

Sec. 3. This Act shall not have the effect of altering or changing any laws now in effect relating to suits for the removal of cloud from title or the appointment of receivers under any other law, but is cumulative thereof.

Sec. 4. The provisions of this Act shall apply only to such tracts of land wherein the ownership of the minerals thereunder is divided among ten (10) or more separate owners, as revealed by duly recorded mineral conveyances of record at the time of the institution of the suit; and further, the provisions of this Act shall apply only where at least fifty per cent (50%) in interest of the total mineral ownership in any such tract is duly before the court and represented in person or by attorneys of record in said suit. Acts 1945, 49th Leg., p. 449, ch. 281.

Effective 90 days after June 5, 1945, date of adjournment.

Title of Act:

An Act providing for the removal of cloud from title and for the appointment of receivers for certain mineral interests

in land owned by nonresident or unknown owners; defining the duties and powers of such receivers; making the Act cumulative of all other laws relating to the same subject; and declaring an emergency. Acts 1945, 49th Leg., p. 449, ch. 281.

3. OFFICIAL COURT REPORTER

Art. 2324a. Powers as to depositions, commissions, oaths and affidavits

Section 1. All official District Court reporters are authorized to take depositions of witnesses, and to receive, execute and return commissions, administer oaths and affidavits, in connection with such depositions, and make a certificate of such fact, and do all other things necessary in the taking of such depositions in accordance with existing laws.

Sec. 2. Said reporters shall have authority to perform the above mentioned acts only within any county within the judicial district that such reporter was appointed and serving in connection with his official business, in the State of Texas.

Sec. 3. This Act shall be cumulative of all existing laws providing for the method and manner of taking depositions. Acts 1945, 49th Leg., p. 386, ch. 248.

Effective 90 days after June 5, 1945, date of adjournment.

Title of Act:

An Act authorizing official District Court reporters to take depositions of witnesses, administer oaths, affidavits in connection with taking depositions, to do all things necessary in the taking of such deposi-

tions; providing that such reporters shall have authority to perform such acts within any county within the judicial district he is officially serving as reporter in the State of Texas; providing that same shall be cumulative of all existing laws; and declaring an emergency. Acts 1945, 49th Leg., p. 386, ch. 248.

Art. 2326. 1925 Compensation

The official shorthand reporter of each Judicial District Court, civil or criminal, and the official shorthand reporter of each County Court at Law, civil or criminal, shall receive a salary of not less than Two Thousand, Four Hundred Dollars (\$2,400) per annum and not more than Three Thousand, Seven Hundred and Fifty Dollars (\$3,750) per annum. Said salary shall be fixed and determined by the District Judges of the Judicial Districts, civil or criminal, and the Judges of the County Court at Law, civil or criminal, who shall enter an order in the minutes of the Court, in each county of the district, which shall be a public record and open for public inspection, stating specifically the amount of salary to be paid said reporter. The District Judge shall file a copy of said order with each Commissioners Court of the District. The salary shall be in addition to the transcript fees and traveling and hotel expenses of official shorthand reporters, as is now provided by law.

The salary shall be paid monthly by the Commissioners Court of the county or counties in the Judicial Districts, civil or criminal, and the County Courts at Law, civil or criminal, out of any available fund of the county or counties that the Commissioners Court may desire to pay the same, according to Articles 2326H and 2327A.

The provisions of this Act shall not apply to counties having a population of not less than two hundred and twenty thousand (220,000) nor more than three hundred and ninety thousand (390,000) inhabitants. As amended Acts 1945, 49th Leg., p. 460, ch. 291, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Section 2 of the Act of 1945 read as follows:

"The provisions of this Act are and shall be held and construed to be cumulative of all General and Special laws of this State on the subject treated of and embraced in this Act when not in conflict

therewith, but in case of conflict, in whole or in part, this Act shall control in so far as any conflict exists. All laws and parts of laws in conflict with said Act are hereby repealed.

"Provided, however, this Act does not repeal nor amend Articles 2326A, 2326H, and 2327A of Chapter 13."

Art. 2326d—1. Salaries in districts of four or more counties with valuations of \$230,000,000

Section 1. The official Court Reporter in all Judicial Districts composed of four or more counties, where the aggregate total assessed valuations of all taxable property in the counties composing any of said Districts is not less than Two Hundred Thirty Million Dollars (\$230,000,000.00) as shown by the approved tax rolls of the several counties composing any of said Judicial Districts for any year commencing January 1, 1945, shall, from and after the effective date of this Act, receive a minimum salary of Thirty-six Hundred Dollars (\$3600.00) per annum, in addition to all traveling expenses, transcript fees and all other compensation now provided by law to be paid to the said official Court Reporters; and providing that the said salary shall be increased up to, but not to exceed, Five Thousand Dollars (\$5,000.00) per annum in the following manner:

If the aggregate total assessed valuations of all taxable property in the several counties comprising any of said Judicial Districts shall exceed Two Hundred Thirty Million Dollars (\$230,000,000.00), as shown by the approved tax rolls of the several counties comprising any of said Judicial Districts for any year commencing January 1, 1945, such salary of the official Court Reporter in each said District shall be increased for the year immediately succeeding the year in which such aggregate total valuations shall exceed Two Hundred Thirty Million Dollars (\$230,000,000.00), as reflected by the approved tax rolls for said year; and such increase shall be at the rate of One Hundred Dollars (\$100.00) per year for each increase in said aggregate total valuation of One Million Dollars (\$1,000,000.00) or fractional part thereof.

Sec. 2. All traveling expenses now provided by law to be paid to the said official Court Reporters shall be paid quarterly by the county for which the same are incurred.

Sec. 3. The salary of the official Court Reporter as herein fixed shall be paid monthly by the respective counties composing any of said Judicial Districts, and in the proportion that the taxable values in each county bear to the aggregate total taxable values of all the counties in each of said Districts. For the purpose of the allowed increase in the salary of the official Court Reporters as herein fixed, the tax rolls of each of the counties as approved by the Commissioners Court of each such county shall conclusively establish and shall be conclusively presumed to be the correct total taxable valuation. In determining the salary of the official Court Reporter for the year 1946, in any of said Judicial Districts, the taxable values of each county for the year 1945 shall serve as the basis for such determination. Thereafter the taxable valuations as shown by the approved tax rolls for each year shall serve as the basis for determining the salary of the said official Court Reporter for the ensuing year.

Sec. 4. The salary of the said official Court Reporters for the year 1945, commencing January 1, 1945, is hereby fixed at Thirty-six Hundred Dollars (\$3600.00) per annum, payable monthly, commencing on the effective date of this Act; provided that all payments of salary to the said official Court Reporters under laws existing in the year 1945, and at the effective date of this Act, shall be deducted; that is to say, all payments made by the respective counties composing said Judicial Districts under existing laws for all months of 1945, until the effective date of the Act, shall be applied against the total annual salary of Thirty-six Hundred Dollars (\$3600.00), as herein fixed, so that for the year 1945 the total salary of any such official Court Reporter shall amount to Thirty-six Hundred Dollars (\$3600.00), and no more.

Sec. 5. If any section, sentence, clause, phrase, or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act. Acts 1945, 49th Leg., p. 430, ch. 272.

Emergency. Effective May 2, 1945.

Section 6 of the act of 1945 repealed all conflicting laws and parts of laws to the extent of the conflict only.

Title of Act:

An Act fixing the salary of the official Court Reporter in all Judicial Districts composed of four or more counties; providing method of payment of salary, expenses and other compensation; providing for the apportionment of the payment of

such salary, expenses and other compensation among the counties composing each of said Judicial Districts; providing that if any section, paragraph, sentence, clause, phrase, or any part of this Act be invalid, such invalidity shall not affect the remainder thereof; repealing all laws and parts of laws in conflict to the extent of such conflict only; and declaring an emergency. Acts 1945, 49th Leg., p. 430, ch. 272.

Art. 2326e. Salaries of reporters in counties over 290,000

Section 1. That the official shorthand reporter of each District Court, Criminal District Court and County Court-at-Law in each county in the State of Texas having a population in excess of two hundred and ninety thousand (290,000) inhabitants, according to the last preceding, or any future, Federal Census, shall receive a salary of Thirty-six Hundred Dollars (\$3600) per annum in addition to the compensation for transcript fees as now provided by law. Said salary shall be paid monthly on approval of the Judge of such Court out of the General Fund, Officers Salary Fund, or the Jury Fund, of each such County as may be determined by the Commissioners Court of any such County. As amended Acts 1945, 48th Leg., p. 103, ch. 71, § 1.

Emergency. Effective April 10, 1945.

Art. 2327a. Salary in certain counties

Article not repealed or amended, see note to article 2326.

TITLE 43—COURTS—JUVENILE

Art. 2329. Repealed. Acts 1943, 48th Leg., p. 313, ch. 204, § 24. Eff. 60 days after May 1, 1943, date of approval

Delinquent children, original jurisdiction in proceedings involving, see article 2338—1.

Art. 2338—1. Delinquent children; juvenile court established in each county; jurisdiction; transfer of cases; custody—Purpose and basic principle

Establishment of Juvenile Courts

Sec. 4. Establishment of Juvenile Courts. There is hereby established as follows, in each county of the state, a court of record to be known as the Juvenile Court, having such jurisdiction as may be necessary to carry out the provisions of this Act.

In counties having juvenile boards, such boards may designate the County Court or one or more of the District Courts or Criminal District Courts to be the Juvenile Court or Courts for such county, and such designation may be changed from time to time by such juvenile boards. In all other counties the District Court or the County Court shall be the Juvenile Court as agreed between the judges of such respective courts, but until such time such County Court and District Court shall have concurrent jurisdiction in cases of children coming within the terms of this Act.

Said Criminal District Courts and the judges thereof shall have the same jurisdiction, powers, authority and duties as is now or may be conferred upon District Courts in regard to such children.

It is provided, however, that the jurisdiction, powers and duties thus conferred and imposed upon the established courts hereunder are super-added jurisdictions, powers and duties, it being the intention of the Legislature not to create hereby another office. Appeals from judgments of such Criminal District Courts shall be taken to the proper Court of Civil Appeals. As amended Acts 1945, 49th Leg., p. 52, c. 35, § 1.

Emergency. Effective March 22, 1945.

TITLE 44—COURTS—COMMISSIONERS

2. POWERS AND DUTIES

Art.
 2351b—4. National forests, prorating receipts from federal government [New].
 2372g. New; repealed.

Art.
 2372g—1. Incapacitated employees; payment of salaries in counties of 290,000-500,000; vacations [New].

1. COMMISSIONERS COURTS

Art. 2339. 2236, 1532, 1509 Election

Juvenile court, see article 2338-1.

Art. 2350. County commissioners salaries

Section 1. In counties having the following assessed valuations, respectively, as shown by the total assessed valuations of all properties certified by the county assessor and approved by the Commissioners Court, for county purposes, for the previous year, from time to time, the County Commissioners of such counties shall each receive annual salaries not to exceed the amounts herein specified, said salaries to be paid in equal monthly instalments, at least one-half (1/2), and not exceeding three-fourths (3/4), out of the Road and Bridge Fund, and the remainder out of the General Fund of the county; said assessed valuations and salaries applicable thereto being as follows:

Assessed Valuations	Salaries to be paid each Commissioner
Not to exceed \$3,500,000.00, as provided at end of this Section.	
\$ 3,500,001 and less than 6,000,000 not to exceed	\$1,500.00
\$ 6,000,001 and less than 9,000,000 not to exceed	\$1,800.00
\$ 9,000,001 and less than 10,000,000 not to exceed	\$2,000.00
\$ 10,000,001 and less than 12,000,000 not to exceed	\$2,200.00
\$ 12,000,001 and less than 20,000,000 not to exceed	\$2,500.00
\$ 20,000,001 and less than 30,000,000 not to exceed	\$3,000.00
\$ 30,000,001 and less than 75,000,000 not to exceed	\$3,600.00
\$ 75,000,001 and less than 120,000,000 not to exceed	\$4,000.00
\$120,000,001 and less than 140,000,000 not to exceed	\$4,800.00
\$140,000,001 and less than 400,000,000 not to exceed	\$5,500.00
\$400,000,001 and over not to exceed	\$6,000.00

In counties having assessed valuation of less than Three Million, Five Hundred Thousand Dollars (\$3,500,000) each Commissioner shall receive Five Dollars (\$5) per day for each day served as Commissioner, and a like amount when acting as ex-officio road superintendent in his Commissioner's precinct, providing in no event shall his total compensation exceed Twelve Hundred Dollars (\$1200) in any one year. Provided further, however, that in counties having National Forest Preserves and with less than Four Million, Five Hundred Thousand Dollars (\$4,500,000) valuation that the salaries of said Commissioners shall not exceed Eighteen Hundred Dollars (\$1800) per year. As amended Acts 1945, 49th Leg., p. 280, ch. 204, § 1.

Sec. 1a. The Commissioners Court in each county is hereby authorized to pay the actual traveling expenses incurred while traveling outside of

the county on official county business never to exceed Three Hundred Dollars (\$300) in any one year for each said official. Acts 1945, 49th Leg., p. 280, ch. 204, § 1.

Emergency. Effective May 11, 1945.

Art. 2350(1). Payment of salaries of County Commissioner and County Judge

The salary of each County Commissioner and each County Judge may be paid wholly out of the County General Fund or, at the option of the Commissioners Court, may be paid out of the County General Fund and out of the Road and Bridge Fund in the following proportions: County Judge not to exceed seventy-five per cent (75%) of such salaries may be paid out of the Road and Bridge Fund, and the remainder out of the General Fund of the County, and each County Commissioner's salary may, at the discretion of the Commissioners Court, all be paid out of the Road and Bridge Fund; provided this section shall not apply except in counties where the constitutional limit of twenty-five cents (25¢) on the One Hundred Dollar (\$100) valuation is levied for general purposes. Acts 1945, 49th Leg., p. 280, ch. 204, § 2.

Prior Act:

Acts 1935, 44th Leg., p. 1036, ch. 362, § 2, contained similar provisions.

Art. 2350(2). Commissioners court to fix salaries of county commissioners

The Commissioners Court at its first regular meeting after the effective date of this Act and thereafter at the first regular meeting of each year shall, by order duly made and entered upon the minutes of same Court, fix the salaries of the County Commissioners for such year, within the limits as provided for in this Act. Acts 1945, 49th Leg., p. 280, ch. 204, § 3.

Art. 2350m. Salaries and expenses in other counties

Counties of 33,000 to 33,325

Acts 1941, 47th Leg., p. 433, ch. 265, § 1, repealed Acts 1945, 49th Leg., p. 552, ch. 337, § 1, eff. June 15, 1945.

2. POWERS AND DUTIES

Art. 2351. 2241, 1537, 1514 Certain powers specified

Transfer of surplus funds from motor vehicle registration fees, see art. 6675a—17.

Art. 2351b—4. National forests, prorating receipts from federal government

That, whereas Congress has heretofore passed a law which provides that thereafter twenty-five per centum (25%) of all moneys received during any fiscal year from each national forest shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said forest is situated to be expended as the State or Territorial Legislature may prescribe for the benefit of the public schools and the public roads of the county or counties in which the national forest is situated, and whereas the Legislature of the State of Texas

has not prescribed any method for prorating said funds, now, therefore, be it enacted that the Commissioners Courts of the counties in Texas in which such national forests are situated are hereby authorized to prorate all such funds received and to be received from the Federal Government for timber and all other income derived from such lands as follows:

Fifty per cent (50%) of such money received shall be allocated to the school districts in proportion to the area in said districts, and fifty per cent (50%) of same to the county for the benefit of the public roads in said county. Provided the Commissioners Court may transfer the fifty per cent (50%) received by said Court to the school districts. Acts 1945, 49th Leg., p. 29, c. 19, § 1.

Emergency. Effective March 5, 1945.

Title of Act:

An Act authorizing Commissioners Courts to allocate between schools and roads certain funds received and to be received

from the Federal Government derived from the sale of timber and all other income on national forests; and declaring an emergency. Acts 1945, 49th Leg., p. 29, c. 19.

Art. 2368a. Requirements governing advertising for bids by counties and cities

Toll bridges over international boundary river, application of this article, see art. 1015g.

Art. 2372g. Repealed. Acts 1945, 49th Leg., p. 82, ch. 58, § 4. Eff. April 4, 1945

Article, derived from Acts 1939, 46th Leg., p. 140, related to payment of salaries of employees in case of illness in certain counties.

Art. 2372g—1. Incapacitated employees; payment of salaries in counties of 290,000–500,000; vacations

Section 1. That from and after the effective date of this Act, in all counties in this State, having a population of not less than two hundred and ninety thousand (290,000), nor more than five hundred thousand (500,000) inhabitants, according to the last Federal Census and any future Federal Census, the Commissioners Courts shall provide for, and it shall be their duty to pay employees of such counties while incapacitated from duty on account of injury suffered or sustained while in the active and actual discharge of his or her duty to said county, upon the following basis and in the following manner, to wit: Where said employee suffers or sustains physical injury while in the actual discharge of his or her duties to the county, which renders said employee totally unfit for the discharge of such duties as may be imposed upon said employee by the Commissioners Court, then said Commissioners Court is hereby authorized and required to pay said employee not exceeding six (6) months pay upon the following basis: (a) The first three (3) months total incapacity, or any fractional part thereof, upon the basis of said employee's full and regular pay; (b) the last three (3) months total incapacity, or any fractional part thereof, if such incapacity should continue for said period, upon the basis of one-half ($\frac{1}{2}$) the regular pay of said employee.

Sec. 2. The Commissioners Courts of said counties and each of them shall inquire into any and all injuries of said employees before making any awards of money under this law, and it shall be the duty of said Commissioners Courts to examine witnesses, conduct hearings and subpoena witnesses for the purpose of determining the merits of each claim.

The said Commissioners Courts are hereby specifically authorized to grant or refuse awards of money unto any employee, and are also given the right to make awards in any amount not exceeding the limits as set by this Act. Any employee feeling himself or herself aggrieved by the action of the Commissioners Court shall have the right of appeal to the Court having jurisdiction of the amount involved, provided said appeal is taken within ten (10) days after rendition of the judgment of the Commissioners Court of such county and said trial shall be de novo.

Sec. 3. The Commissioners Courts may grant vacations to employees in the actual employ of such counties not exceeding fourteen (14) days in any calendar year and, when such vacations are granted, all employees in actual employment of such counties shall be compensated for such vacation time as if actual service were being rendered under their employment. It being the purpose of this Act to grant reasonable vacation time during each calendar year for employees in the counties embraced within this Act. Acts 1945, 49th Leg., p. 82, ch. 58.

Emergency. Effective April 4, 1945.

Section 4 of the Act of 1945 repealed article 2372g and all other conflicting laws and parts of laws.

Section 5 read as follows:

"Should any portion, section, sentence, clause, phrase or word in this Bill be unconstitutional or void, same shall in no wise affect and render invalid any other portion of this Act, and the Legislature declares that it would have passed and enacted all the remaining portions of this Act."

Title of Act:

An Act authorizing and requiring county Commissioners Courts in certain counties, having a population of not less than two hundred and ninety thousand (290,000), nor more than five hundred thousand (500,000)

inhabitants, according to the last Federal Census or any future Federal Census, to pay employees salaries while totally unfit for the discharge of such duties from injuries received in line of duty, providing mode and manner of payment of such salaries and amount of same; providing method of determining liability of such counties; providing for hearings; examination of witnesses and giving County Commissioners Courts rights to subpoena witnesses; providing for method of appeal; providing for vacation with pay during each calendar year; repealing House Bill No. 801, Acts of Regular Session of the Forty-sixth Legislature, 1939, Chapter 2, Title on Counties, Pages 140-141, and all other laws in conflict; providing for a saving clause; and declaring an emergency. Acts 1945, 49th Leg., p. 82, ch. 58.

TITLE 46—CREDIT ORGANIZATIONS

Art. 2462. Loans and investments

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 fifteen per cent (15%) of its capital and surplus, as that term is herein defined. Provided, however, that a credit union may borrow money in any amount not to exceed fifty per cent (50%) of its capital and surplus as the term is herein defined if said borrowings are secured by a pledge of government securities owned by the credit union. It may lend money to its members within the limits and subject to the restrictions provided by law, provided that ten per cent (10%) per annum be the maximum rate of interest on loans and such rate of interest shall include all charges of any nature. In the discretion of the Board of Directors, it 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; it may also invest such surplus and accumulated funds in shares of Building and Loan Associations approved by the Commissioner of Banking of the State of Texas; and it may make loans to other State and Federal Credit Unions, provided such investments in shares of Building and Loan Associations and loans to such Credit Unions shall never aggregate more than twenty-five per cent (25%) of the capital and surplus of such credit union making such investments and loans, nor shall any such loans be in excess of five per cent (5%) of capital and surplus of the lending union, in any of the above named organizations and classes of securities. As amended Acts 1945, 49th Leg., p. 450, ch. 282, § 1.

Emergency. Effective May 31, 1945.

Art. 2477. Conditions of loans

No member of the Board of Directors or of the credit or supervisory committee shall receive any compensation for his services as a member of said Board or committee, nor shall any member of the Board of Directors or supervisory committee, either directly or indirectly, borrow from or become surety for any loan or advance made by the Association except in a sum not to exceed his holdings in the Credit Union as represented by shares thereof, or upon a vote of two-thirds of the members of the Credit Union. No loan shall be granted except for productive or provident purposes or urgent needs, nor for a longer period than twenty-four (24) months; provided, however, that the above limitation as to time shall not apply to loans made by any credit union pursuant to the provisions of the Servicemen's Readjustment Act of 1944 or any amendments thereto,¹ nor shall any loan be renewed for a sum as large as the original amount. Loans to any one member shall not exceed Two Hundred Dollars (\$200), or ten per cent (10%) of the capital and surplus, whichever shall be the larger. As amended Acts 1945, 49th Leg., p. 450, ch. 282, § 2.

¹ 38 U.S.C.A. § 693 et seq.

Emergency. Effective May 31, 1945.

Art. 2481. Dividend

At the annual meeting a dividend may be declared from income which has been actually collected during the fiscal year next preceding or during the months which have elapsed since the association began business, and which remains after the deduction of all expenses, losses and the amount required to be set apart as a guaranty fund. 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. 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. As amended Acts 1945, 49th Leg., p. 450, ch. 282, § 3.

Emergency. Effective May 31, 1945.

Art. 2482. Guaranty fund

Immediately before the payment of each dividend, there shall be set apart as a guaranty fund, ten per cent (10%) of the net income which has accumulated during the fiscal year. Said fund and the investments thereof belong to the association and shall be held to meet contingencies or losses in its business. All entrance fees shall be added at once to the guaranty Fund. But upon recommendation of the Board of Directors, the members at an annual meeting may increase, and whenever said fund equals or exceeds ten per cent (10%) of the amount of capital stock actually paid in, may decrease the proportion of profits required by this Article to be set apart as a guaranty fund. As amended Acts 1945, 49th Leg., p. 450, ch. 282, § 4.

Emergency. Effective May 31, 1945.

TITLE 49—EDUCATION—PUBLIC

Chap.	Art.
Eighteen A. State Board of School Safety Supervision [New]	2898—1
Twenty-one. Educational Services for Exceptional Children - - - - .	2922—2

CHAPTER ONE—UNIVERSITY OF TEXAS

1. BOARD OF REGENTS

Art.	
2589d. Texas Union, student fee for [New].	

1. BOARD OF REGENTS

Art. 2589d. Texas Union, student fee for

Section 1. The Board of Regents of the University of Texas is hereby authorized to levy a regular, fixed student fee not to exceed One Dollar (\$1.00) per student for each semester of the long session and not to exceed Fifty Cents (50¢) per student for each term of the summer school, or any fractional part thereof, as may in their discretion be just and necessary, for the sole purpose of operating, maintaining, and improving the Texas Union; provided, however, that the amount of this fee may be changed at any time within the limits hereinbefore fixed in order that sufficient funds to support the Union may be raised. Provided that any student who is exempted from the tuition fee shall be exempted from the union fee.

Sec. 2. The auditor of the University of Texas shall collect said fees provided for in Section 1 hereof and shall credit the money received from the said fees to an account known as the Student Union Fee Account.

Sec. 3. The money thus collected and placed in the said Student Union Fee Account shall be used for the purpose of operating and maintaining and improving the Texas Union and shall be placed under the control of and subject to the order of the Board of Directors of the Texas Union, which Board of Directors shall annually submit a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The Board of Regents shall make such changes in the budget as it deems necessary before approving the same, and shall then levy the student fees under the provisions of Section 1 in such amounts as will be sufficient to meet the budgetary needs of the Union, within the statutory limits herein fixed. Acts 1945, 49th Leg., p. 115, ch. 78.

Effective 90 days after June 5, 1945, date of adjournment.

Title of Act:

An Act authorizing and empowering the Board of Regents of the University of Texas to levy a regular, fixed student fee for the purpose of operating, maintaining, and improving the Texas Union Building at the University of Texas; fixing the amount of said fee; exempting certain

students from the payment of the fee; authorizing the auditor of the University of Texas to collect the same, and providing the purposes for which said fee shall be used; placing the control of the fees in the hands of the Board of Directors of the Texas Union Building; providing for a budget for the operation of said building; and declaring an emergency. Acts 1945, 49th Leg., p. 115, ch. 78.

CHAPTER FIVE—COLLEGES OF ARTS AND INDUSTRIES

TEXAS STATE COLLEGE FOR
WOMEN

Art.

2624a. Name "College of Industrial Arts", when used in statutes, means Texas State College for Women [New].

TEXAS STATE COLLEGE FOR WOMEN

Art. 2624. 2682 Name of institute

The industrial institute and college located at Denton, in Denton County, for the education of white girls in the arts and sciences, shall be known as the Texas State College for Women. As amended Acts 1945, 49th Leg., p. 203, ch. 156, § 1; Acts 1945, 49th Leg., p. 228, ch. 171, § 1.

Emergency. Effective May 7, 1945.

Art. 2624a. Name "College of Industrial Arts," when used in statutes, means Texas State College for Women

Wherever the name "College of Industrial Arts", or any reference thereto, appears in the Revised Statutes of Texas, 1925, or in any amendment thereto, or in any of the Acts of any Legislature, passed since the adoption of said Revised Statutes, such name and such reference shall hereafter mean and apply to the Texas State College for Women, in order to conform to the name of said College as provided in Section 1 hereof.¹ Acts 1945, 49th Leg., p. 203, ch. 156, § 2; Acts 1945, 49th Leg., p. 228, ch. 171, § 2.

¹ Article 2624.

Emergency. Effective May 7, 1945.

Art. 2628a. Dormitories for College of Industrial Arts at Denton

Change of name of College of Industrial Arts to Texas State College for Women, see art. 2624a.

CHAPTER EIGHT—PRAIRIE VIEW UNIVERSITY

Art.

2643a. Change of name; courses; obligation of students [New].

Art. 2638. 2718, 3885 Management

Name changed to Prairie View University by section 1 of Act of 1945, p. 506, ch. 308, art. 2643a. Section 4 continues the remainder of the act in full force and effect.

Art. 2643a. Change of name; courses; obligation of students

Section 1. The name of Prairie View State Normal and Industrial College for colored teachers at Prairie View is hereby changed to Prairie View University.

Sec. 2. Whenever there is any demand for same, the Board of Directors of the Agricultural and Mechanical College, in addition to the courses of study now authorized for said institution, is authorized to provide for the establishment of courses in law, medicine, engineering,

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

pharmacy, journalism, or any other generally recognized college course taught at the University of Texas, in said Prairie View University, which courses shall be substantially equivalent to those offered at the University of Texas.

Sec. 3. The requirement that each student sign an obligation to teach in public free schools for the colored population for one year after their discharge from the school as contained in Article 2641, Revised Statutes, 1925, shall not apply to students of law, medicine, engineering, pharmacy, journalism, or any other generally recognized college course taught at the University of Texas.

Sec. 4. Except as herein provided, the provisions of Chapter 8, Title 49, Revised Statutes, 1925, shall remain in full force and effect. Acts 1945, 49th Leg., p. 506, ch. 308.

Emergency. Effective June 1, 1945.

Title of Act:

An Act changing the name of Prairie View State Normal and Industrial College for colored teachers to Prairie View University and providing for the establishment of courses in law, medicine, engi-

neering, pharmacy, journalism, or any other generally recognized college course taught at the University of Texas, in such University, whenever there is any demand for any of such courses; and declaring an emergency. Acts 1945, 49th Leg., p. 506, ch. 308.

CHAPTER NINE—STATE TEACHERS' COLLEGES

1. GENERAL PROVISIONS

Art.

2647c. Training teachers in schools of independent districts; contracts [New].

1. GENERAL PROVISIONS

Art. 2647c. Training teachers in schools of independent districts; contracts

That from and after the passage of this Act, the Boards of Regents of the Teacher Training Schools of Texas and the trustees of any independent school district shall be empowered to enter into contracts whereby the Teacher Training Schools may use the public schools of said independent school districts as laboratory schools for the training of teachers; provided no additional money shall be paid out of any fund of the State to the Independent School Districts or the Teacher Training Schools as a result of said contracts. Acts 1945, 49th Leg., p. 234, ch. 177, § 1.

Emergency. Effective May 8, 1945.

Title of Act:

An Act to authorize and permit the Boards of Regents of the several Teacher Training Schools of the State of Texas

and the trustees of independent school districts to enter into contracts for teachers' training; and declaring an emergency. Acts 1945, 49th Leg., p. 234, ch. 177.

CHAPTER NINE A—TUITION AND CONTROL OF FUNDS OF STATE INSTITUTIONS

Art. 2654a. Tuition in state educational institutions

Prairie View State Normal and Industrial College, change of name to Prairie View University, see article 2643a.

Art. 2654b—1. Exemption from fees; war veterans; auxiliary members; members of armed forces and their children; holders of scholarships

Sec. 4. The exemption from the payment of dues, fees, and charges as provided hereinabove in Section 1 and Section 3 of this Article shall not apply to or include honorably discharged members of such United States Armed Forces, or other persons hereinabove named, who are eligible for education or training benefits provided by the United States Government under Public Law No. 16, 78th Congress,¹ or amendments thereto, or under Public Law No. 346, 78th Congress,² or amendments thereto, or under any other Federal legislation that may be in force at the time of registration in the college concerned of such ex-service man or woman. As to all ex-service men or women as defined in this section, the governing boards of each of the several institutions of collegiate rank, supported in whole or in part by public funds appropriated from the State Treasury, are hereby authorized to enter into contracts with the United States Government, or any of its agencies, to furnish instruction to such ex-service men and women at a tuition rate which covers the estimated cost of such instruction or, in the alternative, at a tuition rate of One Hundred Dollars (\$100.00) a semester, as may be determined by the governing board of the institution concerned; provided, however, that if such rates as herein specified are prohibited by Federal law for any particular class of ex-service men or women, then, and in that event, the tuition rate shall be such rate as may be agreed to by said governing boards, but in any event not less than the established rates for civilian students; provided further that should the Federal law provide as to any class of veterans that such tuition payments are to be deducted from any subsequent benefits which said veteran may be hereafter entitled to receive, the educational institution concerned is hereby authorized and directed to refund to any veteran who is a resident of Texas within the meaning of this Act the amount by which any adjusted compensation payment is hereafter actually reduced on account of tuition payments made by the Federal government to such educational institution for such veteran. Added Acts 1945, 49th Leg., p. 552, ch. 338, § 1.

¹ 38 U.S.C.A. § 701, 38 U.S.C.A. ch. 12 note.

² 38 U.S.C.A. § 693 et seq.

Effective 90 days after June 5, 1945, date of adjournment.

CHAPTER TEN—STATE DEPARTMENT OF EDUCATION

Art. 2665. 2729 Apportionment, duty to make; formula

The State Board of Education shall, on or before the first day of August in each year, based on the estimate theretofore furnished said Board by the Comptroller, make an apportionment for the ensuing scholastic year of the available State School Funds among the several counties of the State and the several cities and towns and school districts constituting separate school organizations, according to the scholastic population of each, and thereupon the Secretary shall certify to the treasurer of each such separate school organization the total amount of available school fund so apportioned to each, which certificate shall be signed by the president and countersigned by the Comptroller and attested by the Secretary.

To determine the amount of the available school fund to be apportioned, the State Board of Education shall calculate the total cost of op-

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

erating public schools in Texas for a period of six (6) months, and in so doing shall proceed as follows: (1) It shall consider the average salary of a teacher to be One Hundred and Fifty Dollars (\$150) a month and shall multiply this average salary by the total number of teachers, principals, supervisors and superintendents in the public schools of the State during the preceding year, and shall then multiply this product by six to determine the state public school salary cost for a period of six (6) months; (2) It shall then take one-third ($\frac{1}{3}$) of said salary cost and shall consider the product so found as the total cost of other current expense of the state public schools for a period of six (6) months; (3) It shall then add said total salary cost for six (6) months and the total cost of other current expense for six (6) months and shall consider the sum so found as the total cost of operating the public schools in Texas for a period of not less than six (6) months for the succeeding year.

When the total cost of operating the public schools of the State for not less than six (6) months has thus been legally determined for the succeeding year, this amount shall be divided by the total number of scholastics as found in the approved state school census of the preceding scholastic year and the sum so found shall be considered the per capita apportionment needed to operate the public schools of the State for not less than six (6) months, and the State Board of Education shall make said per capita apportionment if it is within the total possible revenues which would accrue to the Available School Fund for the succeeding year. Should the total cost of operating the public schools of the State as determined above exceed the total probable estimate of the Available School Fund as herein provided, then the State Board of Education shall apportion to the public schools only such per capita for the succeeding year as the probable estimate of the Available School Fund for the said year will pay. As amended Acts 1943, 48th Leg., p. 262, ch. 161, § 1; Acts year will pay. As amended Acts 1945, 49th Leg., p. 74, ch. 52, § 1.

Emergency. Effective March 30, 1945.

Art. 2675b—5. Powers and duties

The State Board of Education shall appoint annually a Textbook Committee to be composed of nine members, each of whom shall be an experienced and active educator engaged in teaching in the public schools of Texas. At least a majority of the members of the Committee shall be classroom teachers and all members shall be appointed because of unusual backgrounds of training and recognized ability as teachers in the subject fields for which adoptions are to be made each year.

It shall be the duty of the Committee to examine all books submitted for adoption and make its recommendations in writing to the State Board of Education relative to the teachable value of the books in the grades and subjects for which they have been submitted.

The Textbook Committee shall hold its meetings where and when the State Board of Education shall determine, and shall receive the same compensation as members of the State Board of Education as provided for in Section 10 of this Act.¹

The qualifications prescribed for members of the State Board of Education in Section 2 of this Act² shall apply to the Textbook Committee provided for herein. As amended Acts 1945, 49th Leg., p. 189, ch. 144, § 1.

¹ Article 2675b—10.

² Article 2675b—2.

Emergency. Effective May 2, 1945.

CHAPTER ELEVEN—COUNTY SCHOOLS

2. SUPERINTENDENT

Art.

2700d—44. Automobiles for use of county superintendents in counties of 500,000 or more [New].

1. TRUSTEES

Art. 2687. Meetings

The county school trustees shall hold meetings once each quarter, on the first Monday in August, February, May and November, or as soon thereafter as practicable, and at other times when called by the president of the county school trustees or at the instance of any two (2) members of the county school trustees and the county superintendent, the meeting place to be at the county seat and in the office of the county superintendent. Each trustee shall be paid Five Dollars (\$5) per day, but not exceeding Sixty Dollars (\$60) in any one year, for the time spent in attending such meetings out of the general fund of the county by warrants drawn on order of the Commissioners Court, after approval of the account, properly sworn to, by the president of the county school trustees. As amended Acts 1945, 49th Leg., p. 371, ch. 238, § 1.

Emergency. Effective May 24, 1945.

2. SUPERINTENDENT

Art. 2688. 2750 Office established

The Commissioners Court of every county having three thousand (3,000) scholastic population or more as shown by the preceding scholastic census, shall at a General Election provide for the election of a County Superintendent to serve for a term of four (4) years, who shall be a person of educational attainments, good moral character, and executive ability, and who shall be provided by the Commissioners Court with an office in the courthouse, and with necessary office furniture and fixtures. He shall be the holder of a teacher's first grade certificate or teacher's permanent certificate. In every county that shall attain three thousand (3,000) scholastic population or more, the Commissioners Court shall appoint such superintendent who shall perform the duties of such office until the election and qualification of his successor. In all counties now or hereafter having the office of County Superintendent where the scholastic population according to the last scholastic census is less than three thousand (3,000) but more than two thousand (2,000) the office of County Superintendent shall continue unless and until a majority of the qualified property tax paying voters of said county, voting at an election held to determine whether said office shall be abolished, shall vote to abolish said office, which election shall be ordered by the Commissioners Court upon petition therefor as hereinafter specified. Provided, however, that if a majority of said voters voting at said election hereinabove provided for, vote to abolish said office said election shall not become effective until the expiration of the term of office for which the County Superintendent has been elected or appointed. And in all other counties having less than three thousand (3,000) scholastic population whenever more than twenty-five (25) per cent of the qualified voters of said county as shown by the vote for Governor at the preceding General Election

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shall petition the Commissioners Court therefor, said Court shall order an election for said county to determine whether or not the office of County Superintendent shall be created in said county; and, if a majority of the qualified property taxpaying voters voting at said election shall vote for the creation of the office of County Superintendent in said county, the Commissioners Court, at its next regular term after the holding of said election, shall create the office of County Superintendent, and name a County Superintendent who shall qualify under this Chapter, and hold such office until the next General Election. Provided, that in all counties having a population in excess of three hundred and fifty thousand (350,000) inhabitants, according to the last available Federal Census, the County Superintendent shall be appointed by the County Board of Education, and shall hold office for four (4) years, provided further, that this provision shall not operate so as to deprive any elected superintendent of his office prior to the expiration of the term for which he has been elected; provided further that in counties having a scholastic population of between three thousand (3,000) and five thousand (5,000) scholastics, wherein the office of County Superintendent has not been created and a superintendent elected, then in such counties the question of whether or not such office is established shall be determined by the qualified voters of said county in a special election called therefor by the Commissioners Court of said county, upon petition therefor as hereinabove specified. As amended Acts 1945, 49th Leg., p. 287, ch. 208, § 1.

Emergency. Effective May 11, 1945.

Art. 2688b. Appointment of county superintendent in counties over 350,000

Appointment of county superintendent in counties over 350,000, see, also, art. 2688.

Art. 2700. Salary of the County Superintendent

Section 1. Salary of the County Superintendent. The elective County Superintendents of Public Instruction shall receive from the Available School Fund of their respective counties annual salaries based on the scholastic population of such counties as follows:

Population			Amount
3,000	or	less	\$2,400.00
3,001	to	4,000	2,600.00
4,001	to	5,000	2,800.00
5,001	to	6,000	3,000.00
6,001	to	7,000	3,200.00
7,001	to	8,000	3,400.00
8,001	to	9,000	3,600.00
9,001	to	12,000	3,800.00
12,001	to	15,000	4,000.00
15,001	to	20,000	4,200.00
20,001	to	30,000	4,400.00
30,001	to	50,000	4,600.00
50,001	and	over	5,000.00

Provided, however, in counties having less than eight thousand and one (8,001) scholastics, where the total expense for office assistants does not exceed Twenty-four Hundred Dollars (\$2,400) per annum, the salary of the County Superintendent may be set at a sum not to exceed Thirty-six Hundred Dollars (\$3,600) per annum by action of the Coun-

ty Board of Trustees. Provided, however, that in no instance shall the salaries as are herein provided be more than Six Hundred Dollars (\$600) increase over the present salaries, for the same scholastic population bracket.

In making the annual budget for County Administration expense, the County School Trustees shall make an allowance out of the State Available School Fund for the salary and expenses of the office of the County Superintendent and the same shall be determined by the resident scholastic population of the county. It shall be the duty of the County Board of Trustees to file the budget for County Administration expense with the State Department of Education on or before September first of each scholastic year, the budget to be approved and certified to by the President of the County Board of Education and attested to by the County Superintendent. The compensation herein provided for shall be paid monthly upon the order of the County School Trustees; provided that the salary for the month of September shall not be paid until the County Superintendent presents a receipt from the State Superintendent showing that he has made all reports required of him. The County Superintendent, with the approval and the confirmation of the County Board of Education, may employ a competent assistant to the County Superintendent at an annual salary not to exceed Twenty-four Hundred Dollars (\$2,400) and may also employ such other assistants as necessary provided the aggregate amount of the salaries of all assistants to the County Superintendent shall not exceed Thirty-six Hundred Dollars (\$3,600) per annum; provided that counties having a population of more than one hundred thousand (100,000) according to the last Federal Census may employ a competent assistant to the County Superintendent at an annual salary not to exceed Twenty-eight Hundred Dollars (\$2,800) and may also employ such other assistants as necessary provided the aggregate amount of the salaries of all assistants shall not exceed Forty-six Hundred Dollars (\$4,600) annually; and said Board is hereby authorized to fix the salary of such assistants and pay same out of the same funds from which the salary and expenses of the County Superintendent are paid; and the County Board of Education may make further provisions as it deems necessary for office and traveling expense of the County Superintendent; provided that expenditures for office and traveling expenses of the County Superintendent shall not be more than Eight Hundred Dollars (\$800) per annum.

Sec. 2. The County Superintendent of Public Instruction may, with the approval of the County Board of Education, employ one or more school supervisors to assist in planning, outlining, and supervising the work of the Public Free Schools in the county which is under the supervision of the County Superintendent of Public Instruction. Said supervisor or supervisors shall at all times work under the supervision and direction of the County Superintendent of Public Instruction, as other assistants are required to do, and must have evidence of proficiency in rural school supervision and must be the holder of at least a Bachelor of Science Degree or higher. Such supervisor or supervisors may receive a salary of not to exceed Twenty-six Hundred Dollars (\$2,600) per annum, to be paid out of the same funds and in the same manner as that of the County Superintendent of Public Instruction and other assistants.

Sec. 3. It shall be the duty of the State Superintendent to remit to the depository banks of each of the respective counties the amount of the State Available School Fund provided in the budget of each county, remittance to be made in October and February of each scholastic year, in equal amount.

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

Sec. 4. The State Superintendent of Public Instruction is hereby authorized to issue and transmit to county officials all instructions necessary for the proper observance and administration of this Act.

Sec. 5. All General and Special Laws in conflict herewith are hereby repealed except such laws as provide for a part of the office expense to be paid out of the general revenue of the county, and the repealing clause shall not apply to any county that levies a special tax for the maintenance of the office of the County Superintendent in whole or in part. As amended Acts 1945, 49th Leg., p. 675, ch. 374, § 1.

Emergency. Effective June 25, 1945.

Counties of 500,000 or more, application in, see art. 2700d—44, § 4.

Art. 2700d—44. Automobiles for use of county superintendents in counties of 500,000 or more

Section 1. In all counties in this State having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census, or any future Federal Census, the County School Trustees may provide for the purchase and maintenance of an automobile for the use of the County Superintendent. In lieu of providing for the purchase and maintenance of such automobile, the County School Trustees may, in their discretion, allow to the County Superintendent out of the County equalization fund such sum of money per month as will in their judgment cover the cost of an automobile and the expense of maintaining it, including depreciation thereon, provided that such sum so fixed shall not exceed the sum of One Hundred Dollars (\$100) per month. Such allowance, when fixed by the County School Trustees, shall be paid monthly from the County equalization fund. Provided, however, that nothing herein contained shall be construed as authorizing any increase in any tax rate now in effect in any such counties.

Sec. 2. The County Superintendent shall make monthly reports showing the kind of automobile operated by him, the number of miles such car was operated during the month in the discharge of the duties of his office, the amounts expended by him in the maintenance thereof, and such other information as may be required of him by the County School Trustees. All such reports shall be audited, and shall be subject to the approval of the County Auditor of such counties, if there be a County Auditor.

Sec. 3. The allowance above provided for shall be continued in effect for such period of time as may be determined by the County School Trustees, and may be changed from time to time as in their judgment the facts and circumstances require. Such allowance shall be in addition to the expenses now authorized by law for County Superintendents.

Sec. 4. The provisions of Article 2700, Vernon's Annotated Civil Statutes, as amended by Acts 1941, Forty-seventh Legislature, Page 407, and Acts 1943, Forty-eighth Legislature, Page 697, shall apply to all counties of the class above enumerated. The provisions of such laws shall be cumulative of all other laws governing such counties. Acts 1945, 49th Leg., p. 169, ch. 126.

Emergency. Effective April 30, 1945.

Title of Act:

An Act to authorize the County School Trustees in all counties having a population of five hundred thousand (500,000) or more, according to the last preceding Federal Census, or any future Federal Census, to provide an automobile for the use of the County Superintendent and to pay the expense of upkeep and maintenance from county equalization funds; authorizing such County School Trustees to make an allowance in lieu thereof; providing

that such costs and expenses shall be paid out of funds on hand or taxes now authorized; making the provisions of Article 2700, as amended by Acts of 1941, Forty-seventh Legislature, Page 407, and Acts of 1943, Forty-eighth Legislature, Page 697, applicable to appointive County Superintendents as well as elective County Superintendents; providing that the allowances herein made shall not increase any rate of taxation now in effect; and declaring an emergency. Acts 1945, 49th Leg., p. 170, ch. 126.

CHAPTER THIRTEEN—SCHOOL DISTRICTS

2. INDEPENDENT DISTRICTS IN TOWNS

Art.

2763a. Depositories, assessors and collectors in independent districts created by special laws; bond; control of schools [New].

4. TAXES AND BONDS

2784e. Maximum tax rate in school districts [New].

2802i—21. Independent districts of 1,500 to 3,000; maximum tax rate [New].

2802i—22. Independent districts with 1,250 to 3,000 scholastics in counties 10,000 to 21,000 and independent county unit districts in counties under 2,000; maximum tax rates [New].

2802i—23. Maximum tax rate in county line independent districts of 700-1200 scholastics in certain counties [New].

2802i—24. Additional maintenance taxes in independent districts in counties having certain levy [New].

5. ADDITIONS AND CONSOLIDATIONS

2803—1. Consolidation of city of over 290,000 with other city or town not to effect consolidation of school districts [New].

6. DISTRICTS IN LARGE COUNTIES

2815g—30. Validation of consolidations with independent school districts; exceptions [New].

2815g—31. Validation of school tax elections in independent or municipal school districts [New].

2815g—32. Validation of school districts; bonds, tax levies and acts; exceptions [New].

2815g—33. Independent school districts separated from municipal control validated; trustees; taxes [New].

2815g—34. Validation of districts, bonds, acts and taxes; exceptions [New].

7. JUNIOR COLLEGES

2815h—3a. Bonds of junior colleges for buildings and equipment; taxes [New].

2815j—2. Appropriations to supplement local funds; regulation and allocation; eligibility [New].

2815k. Management of junior colleges and universities in independent school districts containing city of 380,000 or more; Board of Regents [New].

2815l. Junior colleges organized under special law; validation; may choose to be governed by general law [New].

1. COMMON SCHOOL DISTRICTS

Art. 2741. 2815-6 Establishment of districts

National forests, allocation of receipts from federal government, see Art. 2351b—4.

2. INDEPENDENT DISTRICTS IN TOWNS

Art. 2763a. Depositories, assessors and collectors in independent districts created by special laws; bond; control of schools

Section 1. Any independent school district heretofore created by special law may, by proper order or orders passed by its board of trustees, select and designate its own school depository and also its own assessor and collector of taxes in accordance with the general laws applicable to other independent school districts. Such school depository, when so selected and designated, shall be required to give bond in accordance with the provisions of Article 2832, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 2. The Board of Trustees of any independent school district covered by this Act, after selecting and designating said district's own depository and its own assessor and collector of taxes, in accordance with the provisions hereof, shall thereafter maintain and control the public free schools within said district to the exclusion of every other authority, except in so far as the State Superintendent of Public Instruction

and the State Board of Education may be vested with supervisory authority to instruct said Board and to exercise appellate jurisdiction in connection with its rulings or orders.

Sec. 3. Nothing in this Act shall be construed to affect, supersede, or change any of the provisions of Article 2763, Revised Civil Statutes of Texas, 1925, as amended. Acts 1945, 49th Leg., p. 254, ch. 188.

Emergency. Effective May 9, 1945.

Title of Act:

An Act authorizing any Independent School District heretofore created by special law to select and designate its own school depository, assessor and collector of taxes, and to have the management of its school affairs subject to certain super-

vision and appellate jurisdiction; providing that this Act shall not affect, supersede, or change any of the provisions of Article 2763, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency. Acts 1945, 49th Leg., p. 254, ch. 188.

3. INDEPENDENT DISTRICTS IN CITIES

Minimum safety standards for buildings, independent district in city over 375,000 as affected by statute, see art. 2893—1, § 16—b.

Art. 2763. 2867—8 Assumption of control

Training of teachers, contracts with regents of teachers' training schools, see art. 2647c.

Art. 2774a. Appointment or election and terms of school trustees in certain districts

Sec. 5. The first election under the provision of this Act shall be held on the first Saturday in April, 1931. In all independent districts not having included within their boundaries a city or town whose population exceeded seventy-five thousand (75,000) as shown by the Federal Census of 1920 and in all consolidated and rural high school districts in which the term of office of three elective trustees expire in 1931, their successors shall be elected for a term of three years. In all such districts in which the term of office of four elective trustees expire in 1932, after their successors are elected, they shall determine by lot which two members shall serve for one year and which two members shall serve for three years. Those members drawing numbers one and two shall serve for one year; those members drawing numbers three and four shall serve for three years, and annually thereafter either three trustees or two trustees, as the case may be, shall be elected to serve for a term of three years.

In all such independent, consolidated and rural high school districts in which the terms of office of four elective trustees expire in 1931, their successors shall determine by lot which two shall serve for two years and which two shall serve for three years. Those members drawing numbers one and two shall serve for two years and those members drawing the numbers three and four shall serve for three years; and annually thereafter either three trustees or two trustees shall be elected to serve for a term of three years. Acts, 1930, 41st Legislature, 5th Called Session, page 212, Chapter 66.

Provided, that in towns and cities of this state having a population of not more than twenty-five thousand (25,000) and not less than twenty-two thousand (22,000) according to the last preceding Federal Census and constituting an independent school district and having control of the public schools therein by virtue of the provisions of any special charter granted by the Legislature of this state, the people residing in such cities and towns shall have and retain the right of referendum, so as to

determine whether or not said cities and towns shall come within or be affected by the provisions of this law; said referendum to be initiated by petition of at least twenty-five (25%) per cent of the qualified voters residing in the cities or towns affected. As amended Acts 1945, 49th Leg., p. 440, ch. 277, § 1.

Effective date. Section 2 of the amendatory act of 1945 read as follows:

"This amendment shall take effect and be in force from and upon the date of

the next succeeding general election of trustees of independent school districts as provided by general laws."

Art. 2777b. Trustees; terms in certain independent school districts; election; eligibility; vacancies

Section 1. That in all independent school districts heretofore created by Special Act of the Legislature and having a Board of seven (7) trustees and being included within the boundaries of a city having a population in excess of two hundred and twenty thousand (220,000) and not more than two hundred and ninety thousand (290,000), as shown by the last preceding Federal Census, the terms of office of such school trustees shall be and the same are hereby fixed as follows: Where the term of office of two (2) such elective trustees expire on the first Saturday in April, 1945, and their successors shall be elected during the year 1945, the term of such successors is here fixed at one (1) year so that the term of office of such two (2) trustees shall expire on the first Saturday in April, 1946. On the first Saturday in April, 1946, an election shall be held in such independent school districts and at such election two (2) trustees shall be elected in such districts for a term of six (6) years each. The terms of those trustees elected on the first Saturday in April, 1942, and those trustees elected on the first Saturday in April, 1944, each for a term of six (6) years, shall not be changed. Thereafter elections shall be held on the first Saturday in April of each even numbered year as the terms of office expire for the election of trustees, each for a term of six (6) years. Except as modified by this Act all such elections in such independent school districts shall be held in the manner and in conformity with the provisions of the Special Acts of the Legislature creating such independent school districts.

Sec. 2. Any person shall be eligible to the office of trustee regardless of sex, provided that all other qualifications contained in any Special Law shall remain in effect.

Sec. 3. If any vacancy or vacancies shall occur in the membership of any such board of school trustees, such vacancy or vacancies shall be filled by the majority vote of the remaining trustees of such district, but any trustee so elected to fill a vacancy shall serve only for the unexpired term of his or her predecessor. As amended Acts 1945, 49th Leg., p. 304, ch. 221, § 1.

Emergency. Effective May 2, 1945.

Art. 2777d. Term of office of school trustees in cities of 101,000 to 105,000 constituting independent district

Sec. 3. If any vacancy or vacancies shall occur in the membership of any such Board of School Trustees, such vacancy or vacancies shall be filled by the majority vote of the remaining Trustees of such district. Any Trustee so elected to fill a vacancy shall serve until the next general election of Trustees. At such general election of Trustees, in addition to the three (3) or two (2) regular Trustees, as the case may be, to be elected pursuant to the requirement of Section 2 of the Act of which this is an amendment, there shall be elected a Trustee or Trustees to

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

fill any such vacancy or vacancies, as the case may be, and the person so elected to fill any such vacancy shall serve for the then remaining unexpired portion of the term of his or her predecessor. As amended Acts 1945, 49th Leg., p. 252, ch. 186, § 1.

Emergency. Effective May 9, 1945.

Art. 2783a. Independent control of schools in certain cities, board of education, authority and duties

Validation of districts under 1945 act, see art. 2815g—33.

4. TAXES AND BONDS

Art. 2784. Repealed. Acts 1945, 49th Leg., p. 488, ch. 304, § 2. Eff. June 4, 1945

Elections to authorize taxes in independent districts separated from municipal control validated under 1945 act, see art. 2815g—33. Maximum tax rate in school districts, see art. 2784e.

2784e. Maximum tax rate in school districts

Taxing Power. The commissioners court for the common school districts in its county, and the district school trustees for the independent school districts incorporated for school purposes only, shall have power to levy and cause to be collected the annual taxes and to issue the bonds herein authorized, subject to the following provisions:

1. In common school districts, for the further maintenance of public free schools and the erection and equipment of school buildings therein, a special tax; and in independent districts for the maintenance of schools therein, an ad valorem tax not to exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property of the district.

2. In common school and independent districts, for the purchase, construction, repair or equipment of public free school buildings within the limits of such districts and the purchase of the necessary sites therefor, a tax not to exceed fifty cents (50¢) on the one hundred dollars valuation, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of bonds which said districts are empowered to issue for such purposes.

3. The amount of maintenance tax, together with the amount of bond tax of any district, shall never exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property; and if the rate of bond tax, together with the rate of maintenance tax voted in the district shall at any time exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One Dollar and Fifty Cents (\$1.50).

4. No tax shall be levied, collected, abrogated, diminished or increased, and no 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 shall be entitled to vote.

5. All property assessed for school purposes in a common school district shall be assessed at the rate of value of property as said prop-

erty is assessed for State and county purposes. Acts 1945, 49th Leg., p. 488, ch. 304, § 1.

Emergency. Effective June 4, 1945.

Section 2 of the Act of 1945 repealed article 2784 and all conflicting laws and parts of laws and provided also that nothing therein should in anywise alter, amend, or repeal art. 2802i—21.

Title of Act:

An Act providing that all blind persons with "Seeing-Eye" dogs shall be admitted to hotels, tourist cabins, public inns, pub-

lic cafes, public elevators, and other similar places in the State of Texas, and providing there shall be no additional charge for such "Seeing-Eye" dogs; providing that said dogs shall be muzzled; prohibiting a denial of entry for said "Seeing-Eye" dogs; providing a penalty for the violation of this Act; and declaring an emergency. Acts 1945, 49th Leg., p. 487, ch. 303.

Art. 2785. Elections

Elections to authorize taxes in independent districts separated from municipal con-

trol validated under 1945 act, see art. 2815g—33.

Art. 2786. Bonds

Elections to authorize taxes in independent districts separated from municipal con-

trol validated under 1945 act, see art. 2815g—33.

Art. 2788. Independent district bonds

Elections to authorize taxes in independent districts separated from municipal con-

trol validated under 1945 act, see art. 2815g—33.

Art. 2791. 2861 Independent district assessor and collector

There is hereby created the office of assessor and collector of each independent school district, whether created by special or general law, who shall be appointed by the Board of Trustees thereof, and shall have the same power and shall perform the same duties with reference to the assessment and collection of taxes for free school purposes that are conferred by law upon the assessor and collector of taxes in and for any incorporated city, town or village, or upon the person or officer legally performing the duties of such assessor and collector, and he shall receive such compensation for his services as the Board of Trustees may allow, except in cities and towns provided for, not to exceed four (4) per cent of the whole amount of taxes received by him. He shall give bond in double the estimated amount of taxes coming annually into his hands, payable to and to be approved by the president of the Board, conditioned for the faithful discharge of his duties, and that he will pay over to the treasurer of the Board all funds coming into his hands by virtue of his office as such assessor and collector; provided that in the enforced collection of taxes the Board of Trustees shall perform the duties which devolve in such cases upon the city council of an incorporated city or town, the president of the Board of Trustees shall perform the duties which devolve in such cases upon the mayor of an incorporated city or town, and the county attorney of the county in which the independent school district is located, or the city attorney of the incorporated city in which said district or a part thereof is located, shall perform the duties which in such cases devolve upon the city attorney of an incorporated city or town under the provisions of law applicable thereto. It shall be within the discretion of the Board of Trustees of any independent school district to name an assessor of taxes who shall assess the taxable property within the limits of the independent school district within the time and in the manner provided by existing laws, in so far as they are applicable, and when said assessment has been equalized by a Board of Equalization appointed by the Board of Trustees for that purpose, shall prepare the tax rolls of said district and shall duly sign and certify same

to the county tax collector, or the city tax collector as provided for in the succeeding article. The said assessor of taxes shall receive a fee of two (2) per cent of the whole amount of taxes assessed by him as shown by the completed certified tax rolls. As amended Acts 1945, 49th Leg., p. 232, ch. 176, § 1.

Emergency. Effective May 8, 1945.

Assessor, collector and equalization board acting for included municipality or district, see Art. 1066b.

Art. 2792. 2862 County or city assessor and collector for independent district

When a majority of the Board of Trustees of an independent district prefer to have the taxes of their district assessed and collected by the county assessor and collector, or by the city assessor and collector, of an incorporated city or town in the limits of which the school district, or a part thereof is located, or collected only by the county or city tax collector, same may be assessed and collected, or collected only, as the case may be, by said county or city officers, as may be determined by the Board of Trustees of said independent school district, and turned over to the treasurer of the independent school district for which such taxes have been collected. The property of such districts having their taxes assessed and collected by the county or city assessor and collector may be assessed at a greater value than that assessed for city, county and State purposes, and in such cases the city or county tax assessor and collector shall assess the taxes for said district on separate assessment blanks furnished by said district and shall prepare the rolls for said district in accordance with the assessment values which have been equalized by a Board of Equalization appointed by the Board of Trustees for that purpose. If said taxes are assessed by a special assessor of the independent district and are collected only by the city or county tax collector, the city or county tax collector in such cases shall accept the rolls prepared by the special assessor and approved by the Board of Trustees as provided in the preceding Article. When the county assessor and collector is required to assess and collect the taxes on independent school districts they shall respectively receive one (1) per cent for assessing, and one (1) per cent for collecting same; and when the assessor and collector of an incorporated city, or town, as hereinbefore provided, is required to assess and collect the taxes of independent school districts the Board of Trustees of such school district may contract with the governing body of said city for payment for such services as they may see fit to allow, not to exceed four (4) per cent of the whole amount of taxes collected and received. As amended Acts 1945, 49th Leg., p. 232, ch. 176, § 2.

Art. 2802e—1. Construction and mortgaging of gymnasia, stadia, etc., by districts authorized; self-liquidating; proceedings validated

Section 1. All independent school districts or common school districts and all cities, which have assumed the control of the public schools situated therein, shall have the power to build or purchase buildings and grounds located within or without the district or city, for the purpose of constructing gymnasia, stadia, or other recreational facilities, and to mortgage and encumber the same, and the income, tolls, fees, rents, and other revenues therefrom, and everything pertaining thereto, acquired or to be acquired, and to evidence the obligation therefor by the issuance of bonds to secure the payment of funds to purchase or to construct,

or to purchase and construct the same, including the purchase of equipment and appliances for use therein, and as additional security therefor by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereof a franchise to operate said properties so purchased for a term of not more than ten (10) years after such purchase. No such obligation shall ever be a debt of any such school district or city, but solely a charge upon the property so encumbered, and shall never be reckoned in determining the power of any such school district or city, to issue bonds for any other purpose authorized by law; provided that no election for the issuance of bonds herein authorized shall be necessary, but the same may be authorized by a majority vote of the board of trustees of such independent school district or common school district or the governing body of such city.

Sec. 2. All independent school districts or common school districts and all cities which have assumed the control of the public schools situated therein, shall have the power to build additions to existing gymnasias, stadia, or other recreational facilities owned by the same, and to purchase additional buildings and grounds for the purpose of constructing additions to existing gymnasias, stadia, and other recreational facilities, and to mortgage and encumber said original stadia, gymnasias, or other recreational facilities, together with the additional buildings and grounds and additions to existing gymnasias, stadia, and other recreational facilities, and the income, tolls, fees, rents, and other charges thereof, and everything pertaining thereto acquired or to be acquired, and to evidence the obligation therefor by the issuance of bonds to secure the payment of funds to purchase the same, including the purchase of equipment and appliances for use therein, and as additional security therefor by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereof a franchise to operate said properties so purchased for a term of not more than ten (10) years after such purchase. No such obligation shall ever be a debt of any such school district and/or city, but solely a charge upon the property so encumbered, and shall never be reckoned in determining the power of any such school district or city, to issue bonds for any other purpose authorized by law; provided that no election for the issuance of the bonds herein authorized shall be necessary, but the same may be authorized by a majority vote of the boards of trustees of such independent school district or common school district or the governing body of such city.

Sec. 3. Projects financed in accordance with this law are hereby declared to be self-liquidating in character and supported by charges other than taxation.

Sec. 4. Such bonds provided for in Section 1 shall be payable from the net revenues of the project together with all future extensions or additions thereto or replacements thereof, and the governing body of such school district, or city, shall provide in the ordinance or resolution authorizing the bonds, that the cost of maintaining and operating the project shall be a first charge against such revenue, the maintenance and operating expenses to include only such items as are set forth in said ordinance or resolution. After the payment of such maintenance and operating expenses a sufficient amount of the revenues remaining shall be set aside in a fund known as the Gynasium or Stadium Bond Interest and Redemption Fund to provide for the payment of principal of and interest upon such bonds plus a reasonable amount as a margin for safety. Such fund shall be used for no other purpose than to pay the principal of and interest on said bonds. Any revenues remaining after making the payments hereinabove provided for may be used for any lawful purpose.

Sec. 5. Such bonds provided for in Section 2 shall be payable from the net revenues of the entire project, including the original existing gymnasias, stadia, and other recreational facilities, and the additional buildings and grounds and additions to the existing gymnasias, stadia, and other recreational facilities, together with all future extensions or additions thereto or replacements thereof and the governing body of such city or school district shall provide in the ordinance or resolution authorizing the bonds, that the cost of maintaining and operating the project shall be a first charge against such revenues, the maintenance and operating expenses to include only such items as are set forth in said ordinance or resolution. After the payment of such maintenance and operating expenses, a sufficient amount of the revenue remaining shall be set aside in a fund known as the Gymnasium or Stadium Bond Interest and Redemption Fund to provide for the payment of principal of and interest upon such bonds, plus a reasonable amount as a margin of safety. Such funds shall be used for no other purpose than to pay the principal of and interest on said bonds. Any revenues remaining after making the payments hereinabove provided for may be used for any lawful purpose.

Sec. 6. Every bond issued or executed under this law shall contain the following clause: 'The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.' Such bonds shall be presented to the Attorney General for his approval as is provided for the approval of other school bonds and in such cases the bonds shall be registered by the State Comptroller as in the case of other school bonds.

Sec. 7. No bonds authorized to be issued or executed under this Act shall be issued or executed after the expiration of two (2) years from the effective date of this Act.

Sec. 8. No land upon which is situated any of the school improvements other than as described herein shall ever be subject to the payment of any indebtedness created hereunder, nor shall any encumbrance ever be executed thereon.

Sec. 9. That all acts performed, proceedings had and contracts executed by school districts to which this Act is applicable, and by the governing bodies thereof, which acts, proceedings and contracts were unauthorized by law at the time of their performance or execution, but which would have been authorized under the terms of this Act had the same been in force at such time, are hereby validated, ratified, approved and confirmed in all respects as fully as though they had been duly and legally performed, had and executed in the first instance. As amended Acts 1945, 49th Leg., p. 406, ch. 261, § 1.

Emergency. Effective May 28, 1945.

Art. 2802i—21. Independent districts of 1,500 to 3,000; maximum tax rate

In all independent school districts, whether organized under general or special laws, and which have a scholastic population of more than one thousand, five hundred (1,500) and less than three thousand (3,000) approved scholastics, according to the Scholastic Census, for the preceding year, and the boundaries of which are coextensive with the boundaries of the incorporated cities or towns in which such independent school districts are located, the trustees of such independent school districts shall have the power to levy and cause to be collected the annual taxes herein authorized, subject to the following provisions:

(1) For the maintenance of the public schools therein, an ad valorem tax not to exceed One Dollar and Fifty Cents (\$1.50) on the One Hundred Dollars (\$100) valuation of taxable property of the District.

(2) For the purchase, construction, repair or equipment of public free school buildings within the limits of such districts and the purchase of the necessary sites therefor, an ad valorem tax not to exceed Fifty (50) Cents on the One Hundred Dollars (\$100) valuation of taxable property of the district, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of bonds which such districts are empowered to issue for such purpose.

(3) The amount of the maintenance tax, together with the amount of bond tax of any such district shall never exceed One Dollar and Fifty Cents (\$1.50) on the One Hundred Dollars (\$100) valuation of taxable property within such district; and if the rate of bond tax, together with the rate of maintenance tax voted in the district shall at any time exceed One Dollar and Fifty Cents (\$1.50) on the One Hundred Dollars (\$100) valuation, such bond tax shall operate to reduce the maintenance tax to be difference between the rate of the bond tax and One Dollar and Fifty Cents (\$1.50).

(4) No tax shall be levied, collected, abrogated, diminished or increased, and no bond shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held in the district for such purpose, at which none but property taxpaying qualified voters of such district shall be entitled to vote. Acts 1945, 49th Leg., p. 92, ch. 64, § 1.

Emergency. Effective April 3, 1945.

Section 2 of the Act of 1945 repealed all conflicting laws and parts of laws both general and special.

Acts 1945, 49th Leg., p. 488, ch. 304, § 1; incorporated in article 2784e, and Acts 1945, 49th Leg., p. 116, ch. 79, incorporated in article 2802i—22, provide maximum tax rates for school districts. Section 2 of such Acts provides that nothing therein shall in anywise alter, amend or repeal this article.

Title of Act:

An Act to fix the maximum rate of tax to be levied for school purposes in all in-

dependent school districts, whether organized under general or special laws, and which, according to the Scholastic Census for the preceding year, had a scholastic population of more than one thousand, five hundred (1,500) and less than three thousand (3,000) approved scholastics, and the boundaries of which are coextensive with the boundaries of the incorporated cities or towns in which such independent school districts are located; repealing all laws in conflict herewith, both general and special; and declaring an emergency. Acts 1945, 49th Leg., p. 92, ch. 64.

Art. 2802i—22. Independent districts with 1,250 to 3,000 scholastics in counties 10,000 to 21,000 and independent county unit districts in counties under 2,000; maximum tax rates

Section 1. In all independent school districts, whether organized under general or special laws, and which, according to the last preceding approved original Scholastic Census, had a scholastic population of not less than twelve hundred and fifty (1250) and not more than three thousand (3,000) scholastics, and located in counties with a population of not less than ten thousand (10,000) and not more than twenty-one thousand (21,000) inhabitants according to the last preceding Federal Census, and in all independent county unit school districts in counties with a population of not more than two thousand (2,000) inhabitants according to the last preceding Federal Census, the trustees of such independent school districts and independent county unit school districts shall have the power to levy and cause to be collected the annual taxes herein authorized, subject to the following provisions:

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

(1) For the maintenance of the public schools therein, an ad valorem tax not to exceed One Dollar and Fifty Cents (\$1.50) on the One Hundred Dollars (\$100.00) valuation of taxable property of the district.

(2) For the purchase, construction, repair or equipment of public free school buildings within the limits of such districts and the purchase of the necessary sites therefor, an ad valorem tax not to exceed Fifty Cents (50¢) on the One Hundred Dollars (\$100.00) valuation of taxable property of the district, such tax to be for the payment of the current interest on and provide a sinking fund sufficient to pay the principal of bonds which such districts are empowered to issue for such purpose.

(3) The amount of the maintenance tax, together with the amount of bond tax of any such district shall never exceed One Dollar and Fifty Cents (\$1.50) on the One Hundred Dollars (\$100.00) valuation of taxable property within such district; and if the rate of bond tax, together with the rate of maintenance tax voted in the district shall at any time exceed One Dollar and Fifty Cents (\$1.50) on the One Hundred Dollars (\$100.00) valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One Dollar and Fifty Cents (\$1.50).

(4) No tax shall be levied, collected, abrogated, diminished or increased, and no bond shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held in the district for such purposes, at which none but property taxpaying qualified voters of such district shall be entitled to vote. Acts 1945, 49th Leg., p. 116, ch. 79.

Emergency. Effective April 17, 1945.

Section 2 of the act of 1945 repealed conflicting laws and parts of laws.

Section 2a read as follows: "Declaring that nothing in this Act shall alter, amend or repeal House Bill No. 516, Acts Regular Session, 49th Legislature [art. 2802i—21], anything in this Act to the contrary notwithstanding.

Title of Act:

An Act fixing the maximum rate of tax to be levied for school purposes in all independent school districts, whether organized under general or special laws, and which, according to the last preceding approved original Scholastic Census, had a scholastic population of not less than twelve hundred and fifty (1250) and not

more than three thousand (3,000) scholastics, and located in counties with a population of not less than ten thousand (10,000) and not more than twenty-one thousand (21,000) inhabitants according to the last preceding Federal Census, and in all independent county unit school districts in counties with a population of not more than two thousand (2,000) inhabitants according to the last preceding Federal Census; repealing all laws and parts of laws in conflict herewith; declaring that nothing in this Act shall alter, amend or repeal House Bill No. 516, Acts Regular Session, 49th Legislature, anything in this Act to the contrary notwithstanding; and declaring an emergency. Acts 1945, 49th Leg., p. 116, ch. 79.

Art. 2802i—23. Maximum tax rate in county line independent districts of 700–1200 scholastics in certain counties

In all county line independent school districts composing parts of two or more counties, whether organized under general or special laws, and which, according to the last preceding approved original Scholastic Census, had a scholastic population of not less than seven hundred (700) and not more than twelve hundred (1200) scholastics, and located in counties with a population of not less than five thousand (5,000) and not more than twelve thousand (12,000) inhabitants, according to the last preceding Federal Census, the trustees of such county line independent school districts shall have the power to levy and cause to be collected the annual taxes herein authorized, subject to the following provisions:

(1) For the maintenance of the public schools therein, an ad valorem tax not to exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property of the district.

(2) For the purchase, construction, repair or equipment of public free school buildings within the limits of such district, and the purchase of the necessary sites therefor, an ad valorem tax not to exceed Fifty Cents (50¢) on the one hundred dollars valuation of taxable property of the district, such tax to be for the payment of the current interest on and providing a sinking fund sufficient to pay the principal of bonds which such districts are empowered to issue for such purposes.

(3) The amount of the maintenance tax together with the amount of bond tax of any such district shall never exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation of taxable property within such district, and if the rate of bond tax, together with the rate of maintenance tax voted in the district, shall at any time exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars valuation, such bond tax shall operate to reduce the maintenance tax to the difference between the rate of the bond tax and One Dollar and Fifty Cents (\$1.50).

(4) No tax shall be levied, collected, abrogated, diminished or increased, and no bond shall be issued hereunder, until such action has been authorized by a majority of the votes cast at an election held in the district for such purposes, at which none but property taxpaying qualified voters of such district shall be entitled to vote. Acts 1945, 49th Leg., p. 184, ch. 141, § 1.

Emergency. Effective May 1, 1945.

Section 2 of the Act of 1945 repealed all conflicting laws and parts of laws.

Title of Act:

An Act fixing the maximum rate of tax to be levied for school purposes in all county line independent school districts embracing parts of two (2) or more counties, whether organized under general or special laws, and which, according to the last preceding approved original Scholastic

Census, had a scholastic population of not less than seven hundred (700) and not more than twelve hundred (1200) scholastics, and located in counties with a population of not less than five thousand (5,000) and not more than twelve thousand (12,000) inhabitants, according to the last preceding Federal Census; repealing all laws and parts of laws in conflict herewith; and declaring an emergency. Acts 1945, 49th Leg., p. 184, ch. 141.

Art. 2802i—24. Additional maintenance taxes in independent districts in counties having certain levy

Section 1. Any independent school district which now levies a total tax of One Dollar and Fifty Cents (\$1.50) per one hundred dollars of assessed valuation of taxable property for maintenance purposes and bond interest and sinking fund purposes may levy, assess, and collect taxes at not to exceed the following rates per one hundred dollars of assessed valuation of taxable property, to wit:

For maintenance purposes One Dollar and Seventy-five Cents (\$1.75) per one hundred dollars of assessed valuation; for bond interest and sinking fund purposes Seventy-five Cents (75¢) per one hundred dollars of assessed valuation, but the combined tax for both purposes shall never exceed One Dollar and Seventy-five Cents (\$1.75) per one hundred dollars of assessed valuation. Such taxes shall be assessed, levied, and collected pursuant to the provisions hereof and of the general law applicable to such districts.

Sec. 2. Before levying any maintenance tax in excess of Seventy-five Cents (75¢) upon the one hundred dollars of assessed valuation as hereby authorized, the trustees of any such district shall order and hold an election within such district for the purpose of determining whether a majority of the voters voting thereat desire to authorize the trustees of such district to levy such tax. At such election none but qualified voters who are property taxpayers of such district shall be entitled to vote. The election order and notice of election shall in all cases either state

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

the specific rate of tax to be voted upon, or that the rate shall not exceed the limit herein specified.

Notice of such election shall be given for the length of time and in the manner provided by law for elections for trustees of independent school districts, and such election shall be conducted in accordance with the general law so far as applicable thereto. The ballots for such maintenance tax election shall have written or printed thereon the words "For the School Tax" and "Against the School Tax." If said maintenance tax proposition is defeated by a majority of the voters at an election held for such purpose, no other election shall be held upon such proposition for one year after the date of said election. Acts 1945, 49th Leg., p. 249, ch. 183.

Emergency. Effective May 9, 1945.

Title of Act:

An Act authorizing independent school districts located in counties which now levy a total tax of One Dollar and Fifty Cents (\$1.50) per one hundred dollars of assessed valuation of taxable property for

maintenance purposes and bond interest and sinking fund purposes to levy and collect additional maintenance taxes; providing for elections to authorize such tax levies; and declaring an emergency. Acts 1945, 49th Leg., p. 249, ch. 183.

5. ADDITIONS AND CONSOLIDATIONS

Art. 2803—1. Consolidation of city of over 290,000 with other city or town not to effect consolidation of school districts

That in the event of the consolidation of an incorporated city containing more than 290,000 inhabitants according to the last preceding or any future Federal census, with any other city or town, regardless of the number of inhabitants therein, such consolidation shall not be construed as permitting or requiring a consolidation of any independent school district or common school district or any part of the area thereof for school purposes with any city, town, independent school district or common school district on an affirmative vote in favor of consolidation for municipal purposes. When the ballot in any one of the several cities or towns voting on the question of consolidation contains a statement, phrase or sentence excepting or excluding consolidation of any particularly named independent school district or common school district, such designated school unit shall continue its separate and distinct, legal and corporate existence, with all of the powers and for all of the purposes for which originally organized, without interruption or impairment in any matter. All laws and parts of laws, and charter provisions in conflict herewith are hereby repealed, to the extent of such conflict only. Acts 1945, 49th Leg., p. 54, c. 37, § 1.

Emergency. Effective March 22, 1945.

Section 2 of the Act of 1945 read as follows:

"If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion of this Act."

Title of Act:

An Act providing that upon the consolidation of any incorporated city containing more than 290,000 inhabitants with any other city or town, regardless of the number of inhabitants, the consolidation for

municipal purposes does not include a consolidation of school districts or any part of the area of the school districts for school purposes, and when the ballot in any one city or town submitting the question of consolidation contains a statement excepting or excluding the consolidation of any particular designated school district or common school district, such designated school shall continue its separate existence without interruption; repealing charter provisions and laws in conflict; providing a saving clause; and declaring an emergency. Acts 1945, 49th Leg., p. 54, c. 37.

Art. 2806. Election to consolidate

On the petition of twenty (20) or a majority of the legally qualified voters of each of several contiguous common school districts, or contiguous independent school districts, or one or more independent school districts and one or more common school districts constituting as a whole one continuous territory, praying for the consolidation of such districts for school purposes, the County Judge shall issue an order for an election to be held on the same day in each such district. The County Judge shall give notice of the date of such elections by publication of the order in some newspaper published in the county for at least twenty (20) days prior to the date on which such elections are ordered, or by posting a notice of such elections in each of the districts, or by both such publication and posted notice as may be elected by the County Judge. The Commissioners Court shall, at its next meeting, canvass the returns of such elections, and if the votes cast in each and all districts show a majority in each district voting separately in favor of such consolidation, the Court shall declare the school districts consolidated. Provided that if any such district or districts are situated wholly in a county other than the county or counties embracing any other such district or districts the petitions and election orders prescribed in this Act shall be addressed to and issued by the respective County Judges of the respective counties in which such districts respectively lie, each County Judge ordering the election for the district or districts in his county, and the Commissioners Courts of such respective counties shall canvass the returns and declare the results of the elections in the district or districts of their respective counties. Where one or more independent school districts are consolidated together or with one or more common school districts the consolidated districts shall constitute an independent school district, and shall have all the rights, powers, and privileges granted to independent school districts by the laws of this State.

If only one independent school district is consolidated with one or more common school districts the consolidated district shall bear the name of such independent school district, and the board of trustees of said independent school district shall serve as the board of trustees of the consolidated district until the next regular election of trustees, as prescribed by general law, at which time the consolidated district shall elect a board of seven (7) trustees, whose powers, duties, and terms of office shall be in accordance with the provisions of the general laws governing independent school districts, as they now exist or may be thereafter enacted; provided, if two (2) or more independent school districts are included in such consolidation the consolidated district shall bear the name as prescribed in the petitions for consolidation but such name shall include the words "Consolidated Independent School District," but the board of trustees of the independent school district having the greatest number of scholastics at the time of such consolidation shall serve as the board of trustees of the consolidated district until the next regular election of trustees, as prescribed by general law, at which time the consolidated district shall elect a board of seven (7) trustees, at least two (2) of which trustees shall be elected from the area of each former independent district included in said consolidation, whose powers, duties, and terms of office shall be in accordance with the provisions of the general laws as they now exist or may hereafter be enacted; provided further, that when it is proposed to consolidate contiguous county-line districts, the petitions and election orders prescribed in this Act shall be addressed to and issued by the County Judge of the county having jurisdiction over the principal school of each district and the results of the

election shall be canvassed and declared by the Commissioners Court of said county. As amended Acts 1945, 49th Leg., p. 416, ch. 264, § 1.

Emergency. Effective May 28, 1945.

6. DISTRICTS IN LARGE COUNTIES

Art. 2815g—30. Validation of consolidations with independent school districts; exceptions

Section 1. All consolidations of a county line common school district or districts with a contiguous independent school district (where such independent school district involved had been enlarged by the annexation thereto of one or more common school districts by the County Board of School Trustees of the county in which such independent school district is located, after an election held in such district at large in which a majority of the voters voting at such election voted in favor of such enlargement of such independent school district by the annexation thereto of one or more common school districts) after an election held under the provisions of Article 2742b, Section 5b, Acts of 1927, Fortieth Legislature, First Called Session, p. 228, Ch. 84, where such election carried in favor of such consolidation are hereby in all things validated and confirmed and such independent school districts so created or established by such consolidation are hereby declared to be one independent school district and shall be known by the name of the included independent school district and the management of such new district shall be under the existing board of trustees of such included independent school district and such independent school district so created or established by such consolidation shall have all of the rights, powers and privileges and the same status conferred upon independent school districts under General Law, as well as those conferred upon independent school districts by Special Law if the said original independent school district so included is acting under a Special Law.

Sec. 2. All acts of the County Judges of the counties in which said county line common school district or districts are located in determining the character and status of the districts involved in such consolidation, in calling the elections involved, in giving notice thereof and all acts of the election officers in holding said elections and preparing and making the returns thereof, and all acts of the Commissioners Courts in canvassing the returns of said elections and declaring the result and ordering the said districts consolidated are hereby in all things validated and confirmed and the fact that by inadvertence, or oversight or mistake in determining the character or status of any of the districts involved, or in omitting any act required by law of any such officer in and about the consolidation shall not invalidate any such district so established or created by such consolidation.

Sec. 3. All independent school districts enlarged by order of the County Board of School Trustees of the county in which such district is located by the annexation thereto of one or more common school districts either after obtaining the consent of the board of trustees of the districts involved or after an election held in the area at large at which election a majority of the voters voting at such election voted in favor of such annexation and enlargement are hereby in all things validated and confirmed; and the independent school districts so enlarged by such order of the County Board of School Trustees are hereby declared to be duly established and created independent school districts and the one or more common school districts so annexed to such independent school

districts are hereby declared to be abolished as separate elementary districts and are hereby declared to be an integral part of the enlarged independent school district to the same extent as if originally a part of such independent school district at the time of its original establishment or creation; such enlarged independent school district shall continue under the name of the independent school district and the management and control thereof shall be under the existing board of trustees of such independent school district and such district shall have all of the rights, powers, privileges and the same status conferred upon independent school districts under the General Law, as well as those conferred upon such independent school districts by any special law if the original independent school district is acting under a special law.

Sec. 4. All Acts of the County Board of School Trustees of the county in which such enlarged independent school district is located in determining the character and status of the districts involved, in such annexation proceeding, in calling the elections involved, in giving notice thereof and all acts of the election officers in holding said elections and preparing and making the returns thereof, and all acts of such County Board of School Trustees in canvassing the returns of said elections and declaring the results thereof and in enlarging the independent school district involved by the annexation thereto of one or more common school districts are hereby in all things validated and confirmed and the fact that by inadvertence, or oversight or mistake in determining the character or status of any of the districts involved, or in omitting any act required by law of any such officers in and about such enlargement of an independent school district by such annexation shall not invalidate any such district so established or created by such annexation proceeding.

Sec. 5. All acts of the trustees of any enlarged independent school district and of the trustees of any rural high school district in discontinuing any elementary school in any part of such enlarged independent school district or rural high school district when such school in such district failed to have an average daily attendance the preceding year of at least twenty (20) pupils; and all acts of the County Board of School Trustees of the county in which such independent school district is located for administrative purposes in then consolidating or attempting to consolidate the former elementary school district within such enlarged independent school district to the original independent school district so enlarged, and all acts of the County Board of School Trustees in then consolidating the former elementary school district within such rural high school district to any other elementary school district within such rural high school district, are hereby in all things validated and confirmed and any such former elementary school district within such enlarged independent school district and any elementary school district within such rural high school district are hereby in all things abolished and made an integral part of the district to which they were so consolidated to the same extent as if originally a part of such district to which they were so consolidated. All acts of the board of trustees of the independent school district and all acts of the board of trustees of the rural high school district, in closing said schools and all acts of the county boards of trustees in abolishing said former elementary school districts and elementary school districts and in consolidating the same to the original independent school district or to another elementary school district within the rural high school district are hereby in all things validated and confirmed, and the fact that by inadvertence, or oversight or mistake any act required by law of any of such officers in and about the closing of said schools and the consolidation thereof was omitted shall not invalidate the abolition of such elementary school dis-

trict or former elementary school district and the consolidation thereof.

Sec. 6. It is expressly provided that the provisions of this law shall not apply in any instance where the consolidation, annexation or abolition is in litigation in any of the Courts of this State at the time of the passage of this Act. Acts 1945, 49th Leg., p. 89, ch. 63.

Emergency. Effective April 3, 1945.

Section 7 of the Act of 1945 repealed all conflicting laws and parts of laws.

Title of Act:

An Act to validate the organization and creation of independent school districts established and created by consolidation therewith of one or more county line school districts and by consolidation therewith of elementary school districts and to validate the enlargement of independent school districts by the annexation thereto of one or more common school districts and to validate the abolition of former elementary school districts made an integral part of independent school districts by annexation or by act of the board of trustees of said independent school district in closing the school in such former elementary school district and consolidation by the County Board of School Trustees of such former elementary school district with the independent school district, and

to validate the abolition of elementary school districts within a rural high school district and the consolidation thereof to another elementary school district within such rural high school district by the County Board of School Trustees after the closing of the school in such abolished elementary school district by the board of trustees of such rural high school district, and to validate all acts of the several officers in effecting such consolidations, enlargements by annexation and abolition of former elementary school districts made a part of independent school districts and abolition of elementary school districts; providing that this Act shall repeal all laws or parts of laws in conflict herewith; and providing that this Act shall not apply in any instance where the consolidation, annexation or abolition is in litigation in any of the courts of this State; and declaring an emergency. Acts 1945, 49th Leg., p. 89, ch. 63.

Art. 2815g—31. Validation of school tax elections in independent or municipal school districts

Section 1. Whenever the board of trustees of any independent school district in this State, or the governing body of any city or town in this State which has heretofore assumed control of the public free schools within its limits, thereby creating a municipal school district, regardless of whether the boundaries of such city or town and municipal school district coincide or not, has heretofore called an election pursuant to Section 3 of Article VII of the Texas Constitution, and a majority of the voters voting at such election, who are qualified voters and property taxpayers of any such district or districts, have heretofore authorized the trustees of any such independent school district or any such governing body to levy, assess and collect taxes for school purposes at any rate specified in the election order and notice of election, not to exceed One Dollar and Fifty Cents (\$1.50) on each One Hundred Dollars (\$100) of assessed valuation, and the board of trustees of any such independent school district, or any such governing body, has canvassed said vote and declared the results of said election in favor of the levy, assessment and collection of such tax, all acts and proceedings had and done in connection therewith, including the order calling the election, notice of election, holding of election, canvassing the returns of the election, and declaring the results of same, are hereby authorized, legalized, adopted, approved, ratified, and validated. It is the intention hereof to authorize, ratify, adopt, and confirm all acts and proceedings of the voters, board of trustees, governing bodies, and election officials, of any such school tax election.

Sec. 2. The board of trustees of all such independent school districts and the governing body of all such cities and towns, where the vote has heretofore been in favor of levying such tax for school purposes, shall have the power and authority to levy, assess, and collect such taxes at not to exceed the following rates per One Hundred Dollars (\$100) of assessed valuation of taxable property, to-wit: For maintenance pur-

poses, One Dollar and Fifty Cents (\$1.50) per One Hundred Dollars (\$100) of assessed valuation (or so much thereof as may have been authorized by the voters voting at such election); for bond interest and sinking fund purposes, Fifty Cents (50¢) per One Hundred Dollars (\$100) of assessed valuation, but the combined tax for both purposes shall never exceed One Dollar and Fifty Cents (\$1.50) per One Hundred Dollars (\$100) of assessed valuation. Such taxes shall be assessed, levied, and collected pursuant to the law applicable to such districts.

Sec. 3. Where the board of trustees and tax collector of any such independent school district, or the governing body and tax collector of any such city or town, has heretofore levied and collected school taxes at a rate in excess of One Dollar (\$1) per One Hundred Dollars (\$100) of assessed valuation, pursuant to the authority granted in any such election, the action of such board of trustees and tax collector, or governing body and tax collector in so doing is hereby authorized, legalized, adopted, approved, ratified, and validated. Acts 1945, 49th Leg., p. 177, ch. 137.

Emergency. Effective May 1, 1945.

Section 4 of the Act of 1945 read as follows:

"Nothing in this Act shall validate any of the matters mentioned in Section 1, Section 2 or Section 3, where same is involved in litigation pending on the effective date of this Act."

Title of Act:

An Act validating elections heretofore held in any independent or municipal school district in this State, at which a school tax for the amount and purposes stated was authorized by the qualified voters voting upon the proposition; validating all acts and proceedings of the board of trustees, voters, governing bodies of

cities or towns which have heretofore assumed control of the public free schools within their limits, thereby creating municipal school districts, and election officials in connection with any such election; authorizing all such school districts and governing bodies, where the vote has heretofore been in favor of levying such school tax, to levy, assess, and collect taxes at the rate specified herein; validating all tax levies heretofore made by the trustees of any such independent school district or the governing body of any such city or town, pursuant to authority granted in any such election; making certain exemptions; and declaring an emergency. Acts 1945, 49th Leg., p. 177, ch. 137.

Art. 2815g—32. Validation of school districts, bonds, tax levies and acts; exceptions

Section 1. All school districts, including common school districts, independent school districts, consolidated common school districts, all county line school districts, including county line common school districts, county line independent school districts, county line consolidated common school districts, county line consolidated independent school districts, rural high school districts, and all other school districts, groupings or annexations of whole districts or parts of districts created by vote of the people residing in such districts or by action of County School Boards, whether created by General or Special Law in this State, and heretofore laid out and established or attempted to be established by the proper officers of any county or by the Legislature of the State of Texas, and heretofore recognized by either State or County authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance. All acts of the Boards of Trustees in such districts ordering an election or elections; declaring the results of such elections, for the purpose of authorizing the levy of taxes or the issuance of bonds, or levying, attempting or purporting to levy taxes for and on behalf of such school district, and all bonds issued and now outstanding, and all bonds heretofore voted but not yet issued, and the tax voted in payment thereof, and all bond assumption tax elections following consolidation elections are hereby in all things validated. The fact that by inadvertence, oversight or otherwise any act of the officers of any County in the creation of any district was omitted, shall

in nowise invalidate such district, and the fact that by inadvertence, oversight or otherwise any act was omitted by the Board of Trustees of any such district in ordering any such election or elections, or in declaring the results thereof, or in levying the taxes for such district, or in the issuance of the bonds of any such district, shall in nowise invalidate any of such proceedings or any bonds so issued or authorized to be issued by such districts.

All acts of the County Boards of Trustees of any and all counties in rearranging, changing, or subdividing such school districts or increasing, or decreasing the area thereof, in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, are hereby in all things validated.

Sec. 2. All school districts mentioned in this Act are hereby authorized and empowered to levy, assess and collect taxes at the rate authorized or attempted to be authorized by any election heretofore held in said district for the purpose of fixing, increasing or diminishing taxes for school purposes, or by any Act of the Legislature, whether General or Special.

Sec. 3. This law shall not apply to any district which on the effective date of this Act is involved in litigation which questions the creation, organization, validity of any consolidation or annexation thereof nor to any district which may have been established or consolidated and which was later returned to its original status.

Sec. 4. If any word, phrase, clause, sentence, paragraph, section or part of this Act shall be held by any Court of competent jurisdiction to be invalid, as unconstitutional, or for other reasons, it shall not affect any other phrase, word, clause, sentence, paragraph, section or part of this Act. Acts 1945, 49th Leg., p. 260, ch. 192.

Emergency. Effective May 9, 1945.

Title of Act:

An Act to validate the organization and creation of all school districts, including common school districts, independent school districts, consolidated common school districts, all county line school districts, including county line common school districts, county line independent school districts, county line consolidated common school districts, county line consolidated independent school districts, rural high school districts, and all other school districts, whether created by General or Special Law or by County Boards of Trustees; providing this Act shall not validate the organization or creation of any district, or

consolidation or annexation of any district in or to such district where the same is now involved in litigation; validating the Acts of said County Boards of Trustees and Boards of Trustees of such districts; validating bond assumption elections and all bonds voted, authorized or now outstanding of said districts; validating all tax levies made or authorized in behalf of said districts; authorizing and empowering all school districts mentioned in this Act to levy, assess, and collect the rate heretofore authorized or attempted to be authorized by any election, or by any Act of the Legislature; making certain exemptions; providing a saving clause; and declaring an emergency. Acts 1945, 49th Leg., p. 260, ch. 192.

Art. 2815g—33. Independent school districts separated from municipal control validated; trustees; taxes

Section 1. That all independent school districts in the State of Texas heretofore separated and divorced from, and made independent of, municipal control, after an election held in said city in which a majority of the voters voting at such election voted in favor of such separation and divorcement, pursuant to and in conformity with Acts, 1929, Forty-first Legislature, page 674, Chapter 302, (Vernon's Annotated Civil Statutes, Article 2783a) are hereby in all things ratified, confirmed, and validated.

Sec. 2. That the creation and formation of all independent school districts for rural high school purposes in the State of Texas by the annexation of one or more contiguous common school districts to such independent school district, so separated from municipal control as stated

in Section 1 of this Act, and having a scholastic population of two hundred and fifty (250) or more, after an election held in such district at large in which a majority of the voters voting at such election voted in favor of such enlargement of such independent school district for rural high school purposes by the annexation thereto of one or more contiguous common school districts, pursuant to and in conformity with Acts, 1925, Thirty-ninth Legislature, page 204, Chapter 59; Acts, 1927, Fortieth Legislature, First Called Session, page 206, Chapter 78, Section 3; Acts, 1937, Forty-fifth Legislature, Second Called Session, page 1923, Chapter 40, Section 1, (Vernon's Annotated Civil Statutes, Article 2922c) are hereby in all things ratified, confirmed and validated.

Sec. 3. That the trustees of all such rural high school districts, and other independent school districts mentioned in this Act, with more than one hundred (100) square miles of territory, duly elected from the district at large in accordance with Section 5 of Chapter 59, General Laws of the State of Texas, Thirty-ninth Legislature, 1925, Regular Session (Vernon's Annotated Civil Statutes, Article 2922e), and duly qualified as such trustees, are hereby in all things confirmed, in such election and qualification.

Sec. 4. That all rural high school districts, and other independent school districts, in the State of Texas, mentioned in this Act, are hereby authorized and empowered to levy, assess, and collect annual taxes for the maintenance of public free schools of said district at the rate authorized, or attempted to be authorized, by any election heretofore held in said district, in compliance, or attempted compliance, with Articles 2784, 2785 as amended, 2786 as amended, and 2788, Revised Civil Statutes of the State of Texas of 1925, and Section 1 of Chapter 147, Acts of 1933, Forty-third Legislature, page 376, (Vernon's Annotated Civil Statutes, Articles 2784, 2785, 2786, 2788, and 2955A), whether such election was held within more or less than one year from the date of any preceding election for the same purpose; and any such election so held in such districts mentioned in this Act within less than one year from the date of a preceding election for the same purpose, is hereby in all things confirmed, ratified, and validated.

Sec. 5. That in all such districts mentioned in this Act, all petitions requesting submission at an election of the proposition as to whether or not the public schools shall be divorced from municipal control, all acts of city mayors in ordering such elections, in giving notice thereof, and all acts of the election officers in holding said elections, and in preparing and making the returns thereof, and all acts and orders of the city commission in canvassing and declaring the results of such elections, and in putting into force and effect the said separation of the public free schools from municipal control, all acts and orders of the County Board of School Trustees in ordering an election for the formation of rural high school districts containing more than one hundred (100) square miles of territory by the annexation of one or more contiguous common school districts, each having a scholastic population of less than four hundred (400), to an independent school district having a scholastic population of more than two hundred and fifty (250), in giving notice of such elections, and all acts of the election officers in holding said elections, and all acts of the election officers in preparing and making the returns thereof, and all acts and orders of the County Board of School Trustees in canvassing the returns of said elections and declaring the results thereof and ordering the formation and creation of said rural high school districts by the said annexations, all elections for trustees of such rural high school districts so formed, all acts and orders of the Board of Trustees of such Independent School Districts mentioned in this

Act in calling such trustee elections, in giving notice thereof, and all acts of the election officers in holding said elections and in preparing and making the returns thereof, and all acts and orders of the Board of Trustees of such Independent School Districts in canvassing the returns of said elections and declaring the results thereof, and all acts and orders of the Board of Trustees of said Independent School Districts mentioned in this Act, in calling and ordering elections for maintenance tax, in giving notice thereof, and all acts of the election officers in holding said elections, and in preparing and making the returns thereof, and all acts of the said Board of Trustees of said Independent School District in canvassing the returns of said elections and declaring the results thereof, and in levying, assessing, and collecting the annual taxes for the maintenance of the public free schools of said district at the rate as authorized by said elections are hereby in all things confirmed, ratified, and validated. Provided further that this law shall not apply to any district, the organization, or creation or tax levy or assessment or election of which is now involved in litigation. Acts 1945, 49th Leg., p. 290, ch. 210.

Emergency. Effective May 11, 1945.

Section 6 of the Act of 1945 repealed all conflicting laws and parts of laws.

Section 7 read as follows: "If any word, phrase, clause, sentence, paragraph, section, or part of this Act shall be held by

any Court of competent jurisdiction to be invalid, as unconstitutional, or for other reasons, it shall not affect any other phrase, word, clause, paragraph, section, or part of this Act."

Art. 2815g—34. Validation of districts, bonds, acts and taxes; exceptions

Section 1. All school districts, including any independent school district controlled by a municipality and including common school districts, independent school districts, consolidated common school districts, all county line school districts, including county line common school districts, county line independent school districts, county line consolidated common school districts, county line consolidated independent school districts, rural high school districts, and all other school districts, groups or annexations of whole districts or parts of districts by vote of the people residing in such districts, or by action of the governing body of any such municipality, or by action of county school boards, whether created by general or special law in this state, and heretofore laid out and established by the proper officers of any county or municipality or by the Legislature of the State of Texas, and heretofore recognized by either state or county authorities as school districts, are hereby validated in all respects as though they had been duly and legally established in the first instance. All acts of the boards of trustees in such districts or governing bodies of such municipalities ordering an election or elections, declaring the results of such elections, levying, attempting or purporting to levy taxes for and on behalf of such school district, and all bonds issued and now outstanding, and all bonds heretofore voted but not issued, and all bond assumption tax elections following consolidation elections or annexation to said districts are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any county or municipality in the creation of any district was omitted, shall in no wise invalidate such district; and the fact that by inadvertence or oversight any act was omitted by the board of trustees of any such district or 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 district, or in the issuance of the bonds of any such district, shall in no wise invalidate any of such proceedings or any bonds so issued by such district.

All acts of the county boards of trustees of any and all counties in re-arranging, changing, or subdividing such school districts, or increasing or decreasing the area thereof, in any school district of any kind, or in creating new districts out of parts of existing districts or otherwise, 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.

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 tax paying 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. This law shall not apply to any district which is now involved in litigation, or the validity of the organization or creation of which or consolidation or annexation of territory in or to such district is attacked in any suit or litigation filed within forty-five (45) days after the effective date of this Act. Provided further, that this Act shall not apply to any district which may have been established or consolidated, and which was later returned to its original status.

Sec. 4. If any word, phrase, clause, sentence, paragraph, section, or part of this Act shall be held by any court of competent jurisdiction to be invalid, or unconstitutional, or for other reasons, it shall not affect any other phrase, word, clause, sentence, paragraph, section, or part of this Act. Acts 1945, 49th Leg., p. 434, ch. 275.

Emergency. Effective May 31, 1945.

Title of Act:

An Act to validate the organization and creation of all school districts, including any independent school district controlled by a municipality and including common school districts, independent school districts, consolidated common school districts, all county line school districts, including county line common school districts, county line independent school districts, county line consolidated common school districts, county line consolidated independent school districts, rural high school districts, and all other school districts, whether created by general or special law, or by vote of the people residing in any such districts, or by the governing bodies of any such municipalities, or by county boards of trustees; providing this Act shall not validate the organization or creation of any district, or consolidation or

annexation of any district in or to such district where the same is now involved in litigation or where suit or litigation is filed with reference thereto within forty-five (45) days after the effective date of this Act; validating the acts of said municipal governing bodies, county boards of trustees and boards of trustees of such districts; validating bond assumption elections and all bonds voted, authorized and/or now outstanding of said districts; validating all tax levies authorized or made in behalf of said districts; authorizing and empowering all school districts mentioned in this Act to levy, assess, and collect the same rate, or not to exceed the rate heretofore authorized by any act or acts or election of said districts, or by any Act of the Legislature, making certain exemptions; providing a saving clause; and declaring an emergency. Acts 1945, 49th Leg., p. 434, ch. 275.

7. JUNIOR COLLEGES

Art. 2815h—3. Independent districts in counties of 34,150 to 34,200 and 6,040 to 6,070 population authorized to establish junior colleges

Bonds for buildings and equipment, and taxes, see art. 2815h—3a.

Art. 2815h—3a. Bonds of junior colleges for buildings and equipment; taxes

Section 1. From and after the passage of this Act, the governing boards of all Junior Colleges organized and created in any manner under the provisions of House Bill No. 955, Chapter 37, Acts of 1939, Special Laws, Forty-sixth Legislature, Regular Session, and all amendments thereof,¹ shall have power to issue bonds for the construction and equipment of school buildings and the acquisition of sites therefor, and to provide for the interest and sinking fund for such bonds by levying of such taxes as will be necessary in this connection, subject to the limitations hereinafter imposed. Such governing boards shall also have power to levy and collect taxes for the support and maintenance of such Junior Colleges, provided that no bonds shall be issued and no taxes collected until authorized by vote of the majority of the qualified voters of the Independent School District in which such Junior College is located, at an election called for that purpose in accordance with the provisions of the General Law providing for similar elections in Independent School Districts. The election for the issuance of such bonds for the levying of such tax or taxes, shall be ordered by such governing board upon petition signed by ten per cent (10%) of the qualified property taxpaying voters residing in such district, praying for the issuance of such bonds and/or the levying of such tax or taxes. It shall be the duty of such board to order such election, and the same shall be conducted and the returns made to such board. The issuance of bonds for Junior College purposes, and the provision for the sinking fund for the retirement thereof, and the payment of interest and the levying of taxes for the support and maintenance of the Junior College, shall, in so far as same is applicable, be in accordance with the general election laws and the laws governing the issuance of bonds and the levying of taxes in the Independent School District in which such Junior College is located, provided the total amount of tax levied for the Junior College purposes shall never exceed Twenty Cents (20¢) on the one hundred dollars valuation of property in the Independent School District in which such Junior College is located.

Sec. 2. Such governing boards shall, when so authorized in pursuance of the provisions of Section 1 of this Act, levy taxes for such Junior Colleges, and in levying such taxes shall base the amount levied on the amount of money needed with a reasonable margin for loss and expense in collecting same, and shall furnish a copy of the order making such levy to the proper assessing authority of the Independent School District in which such Junior College is located.

Sec. 3. In case the tax levy necessary to meet the needs of the Junior College is within the limit of Twenty Cents (20¢) prescribed by this Act, and voted by the Independent School District in which such Junior College is located, it shall be the duty of the assessing authority, as above indicated, to assess taxes for Junior College purposes, and it shall be the duty of the Collector of Taxes for such Independent School District to collect the same. Such tax collector shall on or about the tenth of each month make a report to said governing board, showing all moneys collected by him during the past month for Junior College purposes, and shall each month place such funds with the Treasurer of such Independent School District to the credit of such Junior College, such funds to be drawn upon by action of such governing board. The officers assessing and collecting Junior College taxes shall receive therefor the same compensation as is paid for assessing and collecting other school taxes. Acts 1945, 49th Leg., p. 258, ch. 191.

¹ Article 2815h—3.

Emergency. Effective May 10, 1945.

Section 4 of the Act of 1945 repealed all conflicting laws and parts of laws.

Section 5 read as follows: "Should any Section or provision of this Act be declared unconstitutional, such invalidity shall affect only the Section or provision so declared unconstitutional, and shall not affect any other Section or provision of this Act."

Title of Act:

An Act authorizing the governing boards of Junior Colleges organized and created in any manner under the provisions of House Bill No. 955, Chapter 37, Acts of

1939, Special Laws, Forty-sixth Legislature, Regular Session, and all amendments thereof, to issue bonds for construction of buildings, equipment, and for acquisition of sites therefor, to provide sinking funds to retire bonds, to levy taxes of not greater than Twenty Cents (20¢) on the one hundred dollars valuation; providing for elections authorizing taxes for such purposes; providing for the assessment and collection of taxes for necessary amount to meet expenses of operating, supporting, and maintaining such colleges; containing a repealing clause; providing a saving clause; and declaring an emergency. Acts 1945, 49th Leg., p. 258, ch. 191.

Art. 2815j—2. Appropriations to supplement local funds; regulation and allocation; eligibility

Section 1. There shall be appropriated biennially from moneys in the State Treasury not otherwise appropriated an amount sufficient to supplement local funds in the proper support, maintenance, operation, and improvement of the Public Junior Colleges of Texas, which meet the standards as herein provided; and said sum shall be allocated on a basis and in a manner hereinafter provided.

Sec. 2. To be eligible for and to receive a proportionate share of this appropriation, a Public Junior College must be accredited as a first class Junior College by the State Department of Education and the State Department of Education is hereby authorized to set up rules and provisions by which Public Junior Colleges may be inspected and accredited. And provided further that to be eligible to participate in any biennial appropriation, each Public Junior College shall offer a minimum of twenty-four (24) semester hours of vocational and/or terminal courses. And provided that in order to be eligible to participate in any biennial appropriation each Public Junior College shall have complied with all existing laws, rules, and regulations governing the establishment and maintenance of Public Junior Colleges. It shall be mandatory that each institution participating in the funds herein provided shall collect from each pupil enrolled, matriculation and other session fees not less than the amounts provided for by law and by other State-supported institutions of higher learning. Provided that all of the funds allocated under the provisions of this Act, with the exception of those necessary for paying the costs of audits as provided herein, shall be used exclusively for the purpose of paying salaries of the instructional forces of the several institutions.

Sec. 4a. No funds shall be paid to any institution under the provisions of this Act until the payment has been approved by the State Auditor after he has audited the books of the institution. The cost of such audit shall be paid out of the funds allocated herein. Acts 1945, 49th Leg., p. 319, ch. 234.

Effective 90 days after June 5, 1945, date of adjournment.

Section 3 of the Act of 1945 made an appropriation for the two following fiscal years and contained further provisions as follows: "Provided that each of the above Public Junior Colleges shall qualify within the requirements of this Act; and provided further that the funds here appropriated shall be disbursed to and distributed among the Public Junior Colleges which qualify to receive it on the basis

of Sixty Dollars (\$60.00) per capita for each full-time student per scholastic year or equivalent thereof if the calendar year is divided into more than two (2) terms; provided that the term 'full-time student' shall not include members of the Armed Forces of the United States of America and auxiliaries thereof or members of the Armed Forces Reserve of the United States of America and auxiliaries thereof and any other students whose expenses are paid by the United States Government

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

and providing that 'full-time student' as herein used is defined as a student doing fifteen (15) semester hours of work, or equivalent thereof, and that the number of full-time students enrolled in any school to be benefited by this Act shall be determined by dividing the total number of semester hours of work carried by all students of the school, as of November 1st. in any fiscal year, by fifteen (15) or the equivalent thereof in terms of semester hours."

Section 4 provided that any amount appropriated and not used during the first of the two fiscal years might be used during the second fiscal year, and that any amount not used during the second fiscal year should revert to the general revenue fund.

Prior Act:

Acts 1943, 48th Leg., p. 257, ch. 157, contained similar provisions.

Title of Act:

An Act providing for and regulating appropriations for moneys in the State Treasury not otherwise appropriated to supplement local funds for the support, maintenance, operation, and improvement of the

Public Junior Colleges of Texas as named in this Act; providing all funds allocated under the provisions of this Act with the exception of those necessary for paying the costs of audits as provided herein shall be used exclusively for the purpose of paying salaries of the instructional forces of the several institutions; providing for an annual appropriation of Three Hundred Forty-Three Thousand and Eight Hundred Dollars (\$343,800.00), for each of the fiscal years beginning September 1, 1945, and September 1, 1946, respectively, and for allocation thereof; determining the eligibility of a Public Junior College and providing for collection of certain fees from students; defining the term "full-time student" and excepting certain students; providing for disposition of unused funds; providing no funds shall be paid to any institution under the provisions of this Act until payment has been approved by the State Auditor after he has audited the books and providing the cost of auditing the books for the institution shall be paid out of the funds allocated herein; and declaring an emergency. Acts 1945, 49th Leg., p. 319, ch. 234.

Art. 2815k. Management of junior colleges and universities in independent school districts containing city of 380,000 or more; Board of Regents

Section 1. From and after the effective date of this Act, the Board of Education or the Board of Trustees, as the case may be, of any independent school district created either under the general laws of this state or by a special Act of the Legislature and in which there may be situated a city having a population of 380,000 or more according to the last preceding Federal Census, or any subsequent Federal Census, may divest themselves of the management, control and operation of any and all junior colleges and universities maintained and operated in connection therewith, and vest the control, operation and management of any such junior colleges and universities maintained in connection therewith in a separate Board to be known as the Board of Regents of any such junior colleges and universities. Such Board of Education or Board of Trustees, as the case may be, of any such independent school district shall be authorized to name, constitute and appoint a Board of Regents for any and all such junior colleges and universities, in any such school district, to consist of fifteen (15) members who shall be residents of any such independent school district. Upon the appointment of any such Board of Regents the members thereof shall within ten (10) days from and after their appointment qualify in the same manner as is provided by law for the qualification of trustees of independent school districts. In the event any such Board of Regents shall be so appointed pursuant to the terms of this Act prior to April 1, 1946, the members thereof, after they shall have duly qualified as such, shall serve terms as follows: five (5) of such members shall serve for a term expiring April 1, 1946, and until their successors shall be appointed and have qualified; five (5) of such members shall serve for a term expiring April 1, 1948, and until their successors shall be appointed and have qualified; and five (5) of such members shall serve for a term expiring April 1, 1950, and until their successors shall be appointed and have qualified. The members of any such Board of Regents which may be appointed

pursuant to the terms of this Act shall determine by lot the term for which they shall respectively serve. Those drawing numbers 1, 2, 3, 4, and 5 shall serve until April 1, 1946 and/or until their successors shall be appointed and have qualified; those drawing numbers 6, 7, 8, 9, and 10 shall serve until April 1, 1948, and/or until their successors shall be appointed and have qualified, and those drawing numbers 11, 12, 13, 14, and 15 shall serve until April 1, 1950, and/or until their successors shall be appointed and shall have qualified. In the event any such Board of Regents shall be first created and appointed after April 1, 1946, then, and in such event, the members thereof shall serve for terms as follows: five (5) members thereof for a term to expire on the next succeeding April 1st after such appointment and until their successors shall be appointed and shall have qualified; five (5) members thereof for a term to expire on April 1st of the second succeeding year after such appointment and until their successors shall be appointed and shall have qualified; and five (5) members thereof for a term to expire on April 1st of the fourth succeeding year after such appointment and until their successors shall be appointed and shall have qualified; and they shall determine by lot in the manner and time hereinbefore provided for the term for which they shall respectively serve.

All future members of the Board of Regents to succeed those whose terms have expired, or to fill vacancies created by the death or resignation of a member, shall be selected or appointed by one (but not more than one) of the following two methods:

1. Within thirty days after the expiration of the term of any member of any such Board of Regents, or within thirty days after any vacancy occurs on such Board of Regents by death or resignation of any member thereof, it shall be the duty of the remaining members thereof, by not less than a majority vote thereof, to appoint members of such Board of Regents to succeed those whose terms have expired or to fill any such vacancy, subject, however, to the approval and confirmation thereof by a two-thirds majority of the members of the Board of Education or Board of Trustees of any such independent school district included within the terms of this Act.

2. Within thirty days after the expiration of the term of any member of any such Board of Regents, or within thirty days after any vacancy occurs on such Board of Regents by death or resignation of any member thereof, it shall be the duty of such Board of Trustees or Board of Education of any such independent school district included within the terms of this Act, by not less than a majority vote thereof, to appoint members of such Board of Regents to succeed those whose terms have expired or to fill any such vacancies.

The Board of Education or Board of Trustees at the time of divesting itself of management or control of any such junior college or university and vesting the same in the Board of Regents, and as a part of the action of the Board of Education or Board of Trustees of any such independent school district adopting the benefits of this Act, shall select, adopt and specify by a resolution adopted by a majority of the Board of Trustees or Board of Education of such independent school district and incorporated in the minutes thereof, one of the two methods set forth above for selecting future Regents, and thereafter all such Regents (other than the first Board of Regents) shall be selected in accordance with the method so selected, adopted and specified.

Any and all members of any such Board of Regents appointed and who have qualified to succeed any members whose terms so expire, shall serve for a term of six years and/or until their successors shall have been appointed and shall have qualified as herein provided for. In the

event there shall be a vacancy on any such Board of Regents caused by the death or resignation of any member thereof, such vacancy shall be filled for the unexpired term in like manner as for a full term. In all cases where it is provided in this section that members of any such Board of Regents shall serve until their successors shall have been appointed and shall have qualified, in no event shall any member of any such Board serve longer than sixty (60) days after the expiration of his term by reason of such provision; and such place on the Board shall thereafter be vacant until some eligible person is appointed and has qualified.

Transfer of moneys and properties to Board of Regents

Sec. 2. Within ten (10) days after the first Board of Regents shall have been appointed and shall have qualified pursuant to the terms of this Act, the Board of Education or Board of Trustees of any such independent school district so creating and appointing any such Board of Regents shall cause to be transferred to such Board of Regents all moneys then held by any such Board of Education or Board of Trustees and belonging to any such junior colleges and/or universities, and said Board of Education or Board of Trustees shall likewise deliver over to any such Board of Regents any and all personal property of whatsoever kind or character which may at that time be in use exclusively in the operation and maintenance of any such junior colleges and/or universities maintained and operated in connection therewith; and in addition thereto, said Board of Education or Board of Trustees of any such independent school district shall convey or cause to be conveyed by the proper officers thereof any and all lands and buildings which shall or may be at that time used exclusively in connection with the operation and maintenance of any such junior colleges and/or universities, and any such deed of conveyance which may be so executed and delivered pursuant to the terms hereof by the Board of Education or Board of Trustees of any such independent school district shall specify that the lands and buildings thereon situated constitute all of the lands and buildings then being used exclusively in the operation and maintenance of any such junior colleges and/or universities, and any such recitation shall be conclusive of the facts therein recited and be binding on any such Board of Regents to whom the same shall be so conveyed, and thereafter any such Board of Regents, and their successors in office, shall hold the same as Trustees for any such junior colleges and/or universities established in such independent school districts and have the exclusive management, control and disposition thereof; but nothing in this Act shall be construed to give to any such Board of Regents any control, management or disposition of any other properties, real, personal, or mixed, belonging to any such independent school district.

Administrative officers and employees; fees; rules and regulations; management; compensation of Regents

Sec. 3. The Board of Regents of any such junior colleges and/or universities shall select and employ a President, and on recommendation of the President select and employ Deans, Directors, Heads, and any and all other administrative officers, faculty members, and other employees of any such junior colleges and/or universities and fix the compensation and manner of payment thereof. It shall likewise have the power to fix and collect all fees for matriculation, laboratories, libraries, gymnasium, and tuition, as well as any and all other fees and charges as to them may seem fit and proper in the maintenance and operation of any such junior colleges and/or universities. Any such Board shall

make and establish rules and regulations for the management and operation of any such junior colleges and/or universities, and shall define and fix the powers, duties and responsibilities of the President, Deans, or other employees thereof. The Board of Regents of any such junior colleges and/or universities shall have the power to remove the President, and, subject to the rules and regulations above mentioned, remove Deans, Directors, Heads, and any and all other administrative officers, faculty employees and other employees of such junior colleges and/or universities when in their judgment the best interests of the school require it. In addition to all other powers and rights vested in any such Board of Regents by the terms of this Act, such Board shall have the general management and control of, and shall provide for maintaining and operating any such junior colleges and/or universities. The members of any such Board of Regents shall receive no compensation for their services.

Depository banks

Sec. 4. Such Board of Regents shall be and they are hereby authorized and required to select depository banks as places of deposits of all funds of all kind and character which are collected and received by any such junior colleges and/or universities, and such Board of Regents shall require adequate surety bonds or securities to be posted to secure said deposits and they may require additional security at any time they shall deem any such deposit inadequately secured. Any surety bond which may be furnished under the provisions of this Act shall be payable to the Board of Regents of any such junior colleges and/or universities and to their successors in office.

Eminent domain

Sec. 5. Any such Boards of Regents shall have the power to exercise the right of eminent domain and to appropriate property for the purpose of securing grounds for school buildings and appurtenances or additions thereto and/or other school activities under their jurisdiction; and in such event any such Board of Regents shall declare at a regular meeting thereof the necessity of such appropriation, describing the property sought to be appropriated, and stating the name and residence of the owner, if known, and if unknown, stating the fact; and such private property shall be condemned for the use of any such junior colleges and/or universities for the purposes expressed in said declaration, and the said Board of Regents through the same proceedings and under the same rules set forth, as far as applicable, as are now or may hereafter be provided by the general laws of the State of Texas for the condemnation of private property for the use of railroad corporations or in any other manner or by any other proceedings authorized by the general laws of this state for the condemnation of private property for public use and to provide payment therefor.

Contracts; actions; gifts; borrowing money; payment of judgments; exemptions; liability; liens

Sec. 6. Any Board of Regents may, in the name of the respective junior colleges and/or universities maintained in any such independent school district, contract, be contracted with, sue and be sued, plead or be impleaded, or intervene in any court of competent jurisdiction in any suit where the interests of any such Board of Regents of any such junior colleges and/or universities, or either, are involved; and any such Board of Regents may receive gifts, grants, conveyances, donations, legacies and devises made for the use of any such junior colleges and/or universities in any such independent school district and shall have the power to

borrow money for the maintenance of any such junior colleges and/or universities and to secure advances of money and to pledge as security therefor the estimated income for any current year, provided any such sum so borrowed shall never exceed such estimated current income; and further provided that no such Board of Regents shall have any power to mortgage or otherwise encumber any lands and/or buildings belonging to any such junior colleges and/or universities, except that any such Board of Regents shall be and is hereby authorized to borrow money for the purpose of building and equipping self-liquidating projects, such as dormitories and/or other necessary buildings and additions, and to encumber the income, tolls, fees, rents, and other charges to be derived from the operation thereof and everything pertaining thereto and to evidence the obligation therefor by the issuance of bonds, notes or warrants to secure the payment of such loans and indebtedness, providing no such obligations, maintenance, operation or expenses of any like character whatever shall ever be a debt of any such school district but solely a charge upon the income, tolls, fees, rents and charges so encumbered and pledged.

No execution shall be issued or levied by virtue of any judgment that may be recovered against any such Board of Regents, but any such Board of Regents shall provide for the payment of judgments out of the current income received and to be received from the operation of any such junior colleges and/or universities, lands, houses, moneys, debts due to any such Board of Regents; but personal and real property and assets of every description belonging to any such junior colleges and/or universities shall be exempted from execution and sale and from involuntary liens; but any such Board of Regents shall make provisions for the payment of any and all such indebtedness due by it from its current operating revenues. No such Board of Regents shall ever be required to answer any writ of garnishment, neither shall they be required to give any bond for security for costs or for any other security in any suit or action brought by or against any such Board of Regents or in any proceedings to which any such Board of Regents may be a party in any court in this state, and any such Board of Regents shall have the remedies of appeal to all courts without bond or security of any kind; but any such Board of Regents shall be liable in the same manner and to the same extent as if the bond undertaken or security required in other cases had been really executed and given. No such Board of Regents or any member thereof or any such junior colleges and/or universities shall be liable for damages of any kind to property or to person or persons injured or killed on or near any property or premises controlled by such Board of Regents or under the jurisdiction thereof. Neither shall they be liable for damages to persons or property caused by said Board of Regents or any member thereof or by any agent, servant or employees of said Board of Regents. No builder's, materialman's or mechanic's lien of any kind or character shall ever attach to or become a lien upon any property, real or personal, belonging to any such junior colleges and/or universities and under the jurisdiction of any such Board of Regents.

Election of officers; meetings; seal; checks, warrants and drafts

Sec. 7. In the event any such Board of Regents shall be so appointed and created pursuant to the terms of this Act prior to May 1st of any year, the members thereof shall hold a meeting for the purpose of electing officers of said Board of Regents to serve until May 1st of any such year, and thereafter, within ten (10) days after May 1st of each year, said Board shall hold a meeting for the purpose of electing officers of

any such Board of Regents for the ensuing year. The officers of any such Board of Regents shall be chosen from and by the members thereof and shall be a Chairman, Vice-Chairman, and Secretary. At least one public meeting each month, and such other meetings as it may deem necessary for the transaction of its general business, shall be held by any such Board of Regents and regular records thereof shall be kept, with all books, vouchers, records and papers belonging to any such Board of Regents which shall be subject to the right of examination and the right to take copies thereof by every citizen during office hours. The Secretary of any such Board of Regents shall be the keeper of all records thereof and it shall be the duty of such custodian to produce and exhibit any such papers or records demanded to be inspected by any such citizen. Eight members of any such Board of Regents shall constitute a quorum sufficient to transact any business and to bind any such Board of Regents. Such Board of Regents shall make, adopt and publish such rules for the conduct of their business as they may deem proper including the conditions upon which pupils shall be admitted into such junior colleges and/or universities. Any such Board of Regents shall provide a suitable seal indicative of its official authority to be used as said Board of Regents shall deem advisable in the authentication of such bonds, contracts or other documents executed by the authority of any such Board of Regents. Any such seal shall have lettered upon its face the name of any such junior college and/or university and such other things as may be determined by such Board of Regents.

All such checks, warrants and drafts drawn against any funds of any such junior colleges and/or universities for expenditures of any character which shall have been authorized by any such Board of Regents shall be signed by the Chairman or other designated member of the Board of Regents, and attested by the Secretary thereof, or other designated member of the Board of Regents, except that the Board may delegate authority to duly employed officials to issue and sign checks for payrolls and other current bills of routine nature.

Laws controlling; repeals; powers of Board of Education or Board of Trustees not otherwise affected

Sec. 8. Except when in conflict with the terms of this Act, any such Board of Regents which may be appointed or created pursuant to the terms hereof shall in the management, control or operation of any such junior colleges and/or universities be governed by all pertinent laws pertaining to such junior colleges and/or universities, but such other laws, if in conflict with this Act, but only to such extent, are hereby expressly repealed, and all laws, whether general or special, in conflict with this Act, but only to such extent, are hereby expressly repealed; but this Act shall not be deemed to in anywise impair or affect the powers, duties and responsibilities of the Board of Education or Board of Trustees of any such independent school district with respect to any matters other than the operation and maintenance of junior colleges and/or universities maintained in connection therewith within any such independent school district; but any such Board of Education or Board of Trustees of any such independent school district shall continue to have every power, right, responsibility and duty with respect to the control and operation of all other schools within any such independent school district, and the affairs thereof, whether created under the general laws of this state or by special Act of the Legislature. Acts 1945, 49th Leg., p. 37, c. 26.

Emergency. Effective March 12, 1945.

Section 9 of this Act read as follows:
"If any article, section, subsection, sen-

tence, clause or phrase of this Act shall for any reason be held to be unconstitutional or invalid such decision shall not affect

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

the validity of any remaining portions of this Act. The Legislature hereby declares that it would have passed this Act or any article, section, subsection, sentence, clause

or phrase thereof irrespective of the fact that any one or more of the articles, sections, subsections, sentences, clauses or phrases are declared unconstitutional."

Art. 2815l. Junior colleges organized under special law; validation; may choose to be governed by general law

That any public Junior College now organized under the provisions of House Bill No. 955, Chapter 37, Acts of 1939, Special Laws, 46th Legislature, Regular Session, and all amendments thereof,¹ and conducted in the State of Texas, which has been actually in operation prior to January 1, 1943, or which is recognized as a standard Junior College by the State Department of Education, is hereby fully validated and may, by action of its governing board, choose to be governed by the provisions of House Bill No. 10, Chapter 290, Acts of 1929, Forty-first Legislature, Regular Session, and all amendments thereof,² and receive the privileges and benefits of same, at any time that it may desire to do so. Acts 1945, 49th Leg., p. 454, ch. 285, § 1.

¹ Article 2815h—3.

² Article 2815h.

Emergency. Effective May 31, 1945.

Title of Act:

An Act validating all public Junior Colleges now organized under the provisions of House Bill No. 955, Chapter 37, Acts of 1939, Special Laws, 46th Legislature, Regular Session, and all amendments thereof, and conducted in the State of Texas, which have been actually in operation prior to January 1, 1943, or which are recognized

as standard Junior Colleges by the State Department of Education, and authorizing such Junior Colleges to receive the privileges and benefits of House Bill No. 10, Chapter 290, Acts of 1929, Forty-first Legislature, Regular Session, and all amendments thereof; and declaring an emergency. Acts 1945, 49th Leg., p. 454, ch. 285.

CHAPTER FIFTEEN—SCHOOL FUNDS

Art. 2832. 2771 Districts of more than 150 scholastics

Independent districts created by special laws, bond of depository, see art. 2763a.

CHAPTER SIXTEEN—FREE TEXTBOOKS

Art. 2842. Continuing or discontinuing textbooks

It shall be the duty of the State Board of Education, which now performs the duties formerly devolving by law upon the State Textbook Commission, to meet annually on the second Monday in November, and at such other times as it may be called together by the Chairman, for the purpose of considering the advisability of continuing or discontinuing, at the expiration of each current contract, any or all of the State adopted textbooks in use in the public schools of Texas, and of making such adoptions as are provided for in Articles 2843, 2844, and 2844a, Revised Civil Statutes, 1925, as amended. Before making any change in the adopted series, however, the State Board of Education shall, upon thorough investigation, satisfy itself that a change is necessary for the best interest of the school children and that such change is consistent with financial economy. Provided, that unless new texts better suited to the requirements of the schools and at a price and quality satisfactory to the Board are offered to supplant existing texts, then the Board shall renew the existing contracts for such a period as may be deemed advisable not to exceed a period of six (6) years. Provided, that when-

ever the contractor supplying any book agrees to renew the contract on the same terms for a period of not less than two (2) years or more than six (6), the members of the State Board of Education shall give preference to the offer of the company holding the contract if they shall thereby secure as good or better books at a lower price than by making a different contract; and it shall always be lawful for the Board to renew a contract on such terms as in its judgment may be for the best interests of the State. Provided further that before the Board shall determine to displace any book upon which the contract is expiring, it shall, before making a new contract for a new text, ascertain through the office of the State Superintendent of Public Instruction the number of usable books of the kind on which the contract has, or is about to expire, there are on hand, and also the estimated number of such books that would be required to supply the needs of the Schools of the State using said books for the first, second, and third years immediately succeeding the expiration of the contract on such books. The Board shall then secure from the publisher of such book a bid or offer for the furnishing of such text books to meet the actual necessities of the schools of the State during the said first, second and/or third year period, allowing the State, however, a margin of twenty-five (25) per cent over, or twenty-five (25) per cent under, the estimated number to be required. If, upon consideration of the cost of the books required to supply such needs for such a period, it appears to the Board that it will be economical to do so, it may make a contract with such publishers to furnish such books during said first, second and/or third year period with a view to using up the entire supply of such books on hand instead of wasting the same at the expiration of the original contract. At the expiration of said period, the Board shall then make a contract for a textbook on the subject. No contract shall ever be made, binding the State to buy a specific number or a specific quantity of textbooks, but all contracts shall be for such books as the State may need and the purpose of furnishing an estimated number of the books needed, as above provided, shall have as its purpose to give the textbook publishers only an approximation as to the possible quantity of books which the State may need. The contracts for the total number of different texts adopted shall be so arranged, in adoptions taking place after the passage of this Act, that contracts on not more than one-sixth of the total number of different basal subjects shall expire in any one year, or shall be changed in any one year. The series of copy books and series of drawing books shall each be considered as one book. If no text or texts on any prescribed subject or subjects are submitted by any particular publisher or publishers that meet the requirements of the schools, as may be determined by the Board, then it shall be the duty of the Chairman of the Board to instruct the secretary of the Board to investigate the book markets for the purpose of securing bids with a view of providing at most reasonable price or prices possible, the best available texts on any and all subjects that are to be adopted by the Board for the schools of Texas. At the time the Superintendent of Public Instruction undertakes to secure a statement of the number of usable books on hand, as provided above, he shall also secure from the superintendents of independent school districts and county superintendents an expression as to whether or not they believe the existing text should be re-adopted or a new text adopted, and such information shall be for the use of the State Board of Education, but the Board shall not be bound to re-adopt the old text or to adopt a new text by reason of such expression of preference by such superintendents. As amended Acts 1945, 49th Leg., p. 306, ch. 222, § 1.

Emergency. Effective May 22, 1945.

Art. 2874. Trustees bond

One or more members or employees of each district board of trustees shall enter into a bond in the sum of fifty per cent (50%) of the value of the books consigned to them by the State, payable in Austin, Texas, to the Governor of the State of Texas, or his successors in office, said bond to be approved by the county judge of the county in which the school is situated, and by the State Superintendent of Public Instruction and deposited with the State Superintendent, conditioned on the faithful discharge of his duties under his employment and under this Act, and that he or they will faithfully account for all books coming into his or their possession, and for all moneys received from the sale thereof. All moneys accruing from the forfeiture of the bonds shall be deposited by the Governor to the credit of the State Text Book Fund. Acts 1945, 49th Leg., p. 549, ch. 334, § 1.

Effective 90 days after June 5, 1945, date of adjournment. Section 2 of the Act of 1945 repealed all conflicting laws and parts of laws.

CHAPTER EIGHTEEN—COMPULSORY EDUCATION**Art.**

2892b. Districts having city over 375,000; children subject to certain exemption provisions of Article 2893 [New].

Art. 2892b. Districts having city over 375,000; children subject to certain exemption provisions of Article 2893

Every child in a school district in which there is an incorporated city with not less than three hundred seventy-five thousand (375,000) inhabitants, according to the last preceding Federal Census, who is seven years and not more than sixteen years old, subject to subdivisions 2 and 3 of Article 2893, Revised Civil Statutes of Texas of 1925, shall be required to attend a public, private or parochial school 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. Acts 1945, 49th Leg., p. 129, ch. 88, § 1.

Emergency. Effective April 20, 1945.

Amendment by acts 1945, p. 185, ch. 142 of art. 2893, subd. 5, and Pen.Code. art. 298, increasing from 12 to 16 the age of children exempted from compulsory education law under certain circumstances does not affect this act. See art. 2893 note and Pen.Code, art. 298 note.

Title of Act:

An Act providing that every child in a school district in which there is an incorporated city with not less than three hundred seventy-five thousand (375,000) in-

habitants according to the last preceding Federal Census, who is seven years and not more than sixteen years old, subject to sub-divisions 2 and 3 of Article 2893, Revised Civil Statutes of Texas of 1925, shall be required to attend a public, private or parochial school 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; and declaring an emergency. Acts 1945, 49th Leg., p. 129, ch. 88.

Art. 2893. Exemptions

5. Any child more than sixteen (16) years of age who has satisfactorily completed the work of the ninth grade, and whose services are needed in support of a parent or other person standing in parental relation to the child, may, on presentation of proper evidence to the county superintendent, be exempted from further attendance at school. As amended Acts 1945, 49th Leg., p. 185, ch. 142, § 2.

Emergency. Effective May 1, 1945.
Section 2e of the Act of 1945 provided

that nothing in the act should change or amend any part of art. 2892b.

CHAPTER EIGHTEEN A—STATE BOARD OF SCHOOL SAFETY SUPERVISION [NEW]

Art.

2898—1. Board of School Safety Supervision; minimum safety standards for buildings; approval of plans before paying contractors; exceptions.

Art. 2898—1. State Board of School Safety Supervision; minimum safety standards for buildings; approval of plans before paying contractors; exceptions

Section 1. It is declared to be the public policy of this state to prevent the unnecessary loss of life and destruction of property due to failure to observe safety practices, rules and procedures in the architectural design of public buildings and schools, and it is the intention of the Legislature to delegate to the Board here created the authority to determine as a fact the minimum safety standards that will promote and effectuate such policy and so declare them by issuing rules, regulations and orders in that regard after a public hearing in respect thereto, as well as to set up the other regulations, supervision and controls thereof as is incorporated in this Act.

Membership of board—Authority

Sec. 2. The State Superintendent of Public Instruction, the State Fire Insurance Commissioner and the State Director of Public Safety shall by virtue of their office and in addition to the duties now performed in such capacities, compose the State Board of School Safety Supervision and perform the duties hereinafter prescribed for such Board. The Board and its members are hereby authorized and empowered to perform the duties and functions hereinafter prescribed for it and its members.

Meetings; hearings; adoption of rules, regulations and orders

Sec. 3. The State Board of School Safety Supervision shall meet on the first day of June of each year, and at such other times as a majority of the Board may agree, in a public hall or auditorium in the City of Austin and there hear, under such reasonable rules as the Board may make for the conduct of the hearing, such matters as may be brought to their attention or that the Board or any member may initiate concerning safety of school children and protection of school property, and after such hearing make rules, regulations and orders setting up safety standards to be followed in the construction, operation and use of public school buildings, plants and facilities that will promote safety of school children and school occupants and the safe use of such buildings, plants and facilities.

Patented or monopolized equipment; architectural designs and requirements

Sec. 4. Such rules, regulations and orders shall not be so framed as to require the use of any patented or monopolized safety equipment, device or plan or the use of any material that would limit or tend to limit the free choice and exercise of free agency on the part of school trustees or others having authority to contract for the erection of school buildings, nor require any building contractor to use any specified material or device therein. Such rules, regulations and orders may only require the incorporation into school buildings, plants and facilities, architectural designs and requirements that will tend to reduce hazards to the property itself and make the use of such buildings, plants and

facilities safe for school children and school employees or other persons using and occupying school facilities.

Minimum standards

Sec. 5. The rules, regulations and orders made by the Board shall require that school buildings in Texas conform with the following minimum standards:

1. No window admitting light shall be so placed in a class room or study hall that it must be faced by pupils when seated at their desks. All such window openings shall not come lower than a point three and a half feet from the floor, and shall extend to a point within six inches of the ceiling; and the area of clear window surface thereof shall not be less than one-sixth of the area of the floor space in said class room or study hall. No part of said class room or study hall shall be at a greater distance from the window than twice the height of the top of the window above the floor, except when adequate skylights are provided. The main light in all one-room schools shall come from the left of the pupils as they sit at their desks, and in all larger buildings this condition shall be approximated as nearly as architectural demands and the demands of ventilation will permit.

2. All school houses shall be provided with sufficient heating apparatus. All stoves, radiators or other sources of direct heat located within the class rooms or study halls shall be so jacketed, ventilated or otherwise protected that the desks upon the side adjoining same shall not be more than five degrees Fahrenheit hotter than the desks upon the opposite side of the room; and shall be equipped with an automatic temperature regulator that will regulate the temperature of said class room or study hall to within two degrees of any set standard.

3. Every class room or study hall shall be provided with an efficient apparatus whereby in cold weather a supply of thirty cubic feet per minute of fresh, warm air shall be supplied to each pupil in such manner as not to place any pupil in a disagreeable draft, and shall be provided with exhaust flue or flues, with inlets at or near the floor line, so arranged as to effectively carry out of the room the cold and impure air without placing any pupil in a disagreeable draft.

4. All interior wood work in school buildings shall be without such unnecessary fluting, turning or carvings as catch dust and microbes, and all floors shall have their surfaces made impervious to water and germs by a coat of boiling paraffin oil or other floor dressing having similar effect, applied immediately after the floor is laid.

5. All school buildings of two or more stories shall be provided with not less than two widely separated flights of stairs, and no stair shall have winding treads, but every tread shall be full width and turns be made flat landings not less than four feet wide; and there shall be one such landing between floors. All stairs shall have a hand rail on each side and of such size and so placed that it can be held easily by the pupils using said stairs.

6. All outside doors and all doors leading from class rooms or study halls shall be hung so as to open outward.

7. The Board shall have the authority and is empowered and authorized, upon the application of any school district acting through its Board of Trustees, Superintendent or Principal, to suspend any of the minimum standards or requirements set out in this section if the Board finds as a fact that such standard or requirement does not contribute to the safety and health of school children and protection of school property of the particular school involved, by entering an order on its minutes designating that part of Section 5 suspended and the reasons therefor; a copy of which order shall be filed as provided in Section 6 hereof.

Filing of rules, regulations and orders; inspection; modification

Sec. 6. The rules, regulations and orders after adoption by two-thirds of the members of the Board shall be filed in the office of the State Fire Insurance Commissioner, and be open to the inspection of the public during reasonable business hours each business day, and the Board shall through every means available to it without cost to the state, give publicity to the rules, regulations and orders adopted. Modification of any rules, regulations or orders may be made from time to time after open hearing as heretofore provided, and such modification filed with the State Fire Insurance Commissioner.

Approval of plans

Sec. 7. Plans of any new construction or alteration, repair or change in any public school building shall be submitted to the State Fire Insurance Commissioner, who shall act for the Board, and be examined by him to determine if such plans meet the standards set up by the Board before construction is undertaken. The Insurance Commissioner, acting for the Board, shall have exclusive authority to approve or disapprove plans and shall do so without delay, and in cases where approval is withheld, he shall indicate wherein the plans under consideration fail to meet the standards set up by the Board and when such plans are amended to conform with the Board's requirements, he shall approve them and issue his certificate of approval. No public money of this state or any county, city or town, school district or subdivision of this state shall be paid to any contractor or other person in consideration of the construction, alteration or change in any public school building until such plans are so submitted and a certificate of approval is issued by the State Fire Insurance Commissioner. Approval may be made after completion, if construction conforms with the standards prescribed by the Board, if good cause be shown for not obtaining approval prior to the beginning of construction. Any person disbursing public funds shall be liable on his official bond for his violation of this provision. The foregoing provision shall not authorize the construction of any building, or alteration, change or repair thereof without first obtaining such permit or permits as may be required by valid local ordinance or regulation.

Department heads and employees to carry out duties

Sec. 8. Within the existing organization of the named Departments, whose heads comprise this Board, insofar as appropriations will permit, it will be the duty of the heads of the Departments named and their employees to carry out the duties prescribed for the Board.

Inspection of buildings, premises and facilities

Sec. 9. The State Superintendent of Public Instruction will require that all other department personnel performing the function of inspectors of schools be charged with the duty of inspecting school buildings, premises and facilities, and reporting in writing to the State Superintendent of Public Instruction the result of their inspection with a statement as to the nature of any hazardous condition (hazardous to life or property) found, and their recommendation as to how such condition may be removed or remedied. Nothing herein shall be construed as requiring the retention of any present personnel or the addition of new personnel.

Inspector to obtain certificate

Sec. 10. Each person hereafter employed in the State Department of Public Instruction to perform the function of Inspector of Schools,

regardless of the title by which the position is designated, shall, within one year after such employment, obtain a certificate from an institution approved by this Board certifying that he has successfully completed such course of instruction in safety work as the institution offers.

Summary of reports; notice and recommendation

Sec. 11. The Superintendent of Public Instruction shall summarize such reports and furnish them to the Executive Secretary of the Board who shall issue a notice in writing describing the condition found by the inspector, along with recommendations as to its removal or remedy, which notice shall be directed to the Superintendent, Principal, or other person in charge of the school concerned, and a copy of such notices shall also be directed to the President and members of the Board of Trustees of such school district.

Exemption of schools in incorporated cities

Sec. 12. Inspection of schools located within incorporated cities shall not be made if the Superintendent, Principal or President of the Board of Trustees of such schools files with the State Board a certificate under oath that the school building, plant and facilities are within the protection of an organized fire department and that regular inspections of the premises are made by municipal fire inspectors at least every six months.

Notice that approval required

Sec. 13. The State Superintendent of Public Instruction shall notify the President of the Board of Trustees of each school district in this state of the requirement that prior approval of plans of new construction, alterations, repair or change in public school buildings must be obtained from the Board.

Executive director of board

Sec. 14. The Director of the Department of Public Safety shall be Secretary of this Board and its Executive Director. He shall cause to be kept, minutes of the Board meetings, and shall perform the duties herein prescribed for the Executive Director, and shall file on behalf of the Board a biannual report with the Governor reviewing the activities of the Board.

Deputizing employees

Sec. 15. The members of this Board may deputize employees of their departments to act for them in the performance and discharge of the duties prescribed, but all acts shall be in the name of the Board.

Textbooks

Sec. 16-a. The State Board of Education is hereby prohibited from purchasing any textbooks out of public funds for any purpose arising under the provisions of this Act.

Independent districts having city of 375,000

Sec. 16-b. Nothing in this Act, except Sections 8 to 12, inclusive, shall apply to any independent school district having within its limits a city containing a population of 375,000 inhabitants or more according to the last preceding or any future Federal Census. Acts 1945, 49th Leg., p. 97, ch. 68.

Emergency. Effective April 10, 1945.

Section 16 of the Act of 1944 repealed articles 2920, 2921, 2922, and all conflicting laws and parts of laws.

Title of Act:

An Act declaring public policy and creating a State Board of School Safety Supervision; prescribing the authority, pow-

ers, and duty thereof; providing for personnel; requiring certain minimum safety standards; providing that no public monies shall be expended except upon certain conditions; excepting certain school districts herefrom; repealing Articles 2920,

2921, 2922 of Title 49, Chapter 19 of the Revised Civil Statutes of 1925 and all laws in conflict herewith; and declaring an emergency. Acts 1945, 49th Leg., p. 97, ch. 68.

CHAPTER NINETEEN—MISCELLANEOUS PROVISIONS

Art. 2911a. Spanish in elementary grades, teaching of; text books; records

Sec. 2. The State Board of Education is hereby authorized and empowered and directed to purchase text books and recorded Spanish exercises for the teaching of the Spanish language in such grades or sections of grades so designated by said Board of Trustees, and to distribute such books without cost to the pupils. As amended Acts 1945, 49th Leg., p. 465, ch. 294, § 1.

Emergency. Effective June 4, 1945.

Arts. 2920-2922. Repealed. Acts 1945, 49th Leg., p. 97, ch. 68, § 15. Eff. April 10, 1945.

Minimum safety standards for school buildings, see art. 2898-1.

CHAPTER NINETEEN A—RURAL HIGH SCHOOLS

Art. 2922c. Area

Validation of districts under 1945 act, see art. 2815g-33.

CHAPTER TWENTY-ONE—EDUCATIONAL SERVICES FOR EXCEPTIONAL CHILDREN [NEW]

Art.
2922-2. Purpose and Definition.
2922-3. Eligibility.
2922-4. Supervision and Administration.
2922-5. Teacher Qualifications and Course of Study.

Art.
2922-6. Allocation and Appropriation.
2922-7. Institutional Schools.
2922-8. Repealing and Constitutional Clauses.

Art. 2922-2. Purpose and Definition

Section 1. It is the purpose of this Act¹ to provide competent educational services for the exceptional children in Texas between and including the ages of six (6) and seventeen (17) for whom the regular school facilities are inadequate or not available.

Sec. 2. In interpreting and carrying out the provisions of this Act, the words "exceptional children", wherever used, will be construed to include any child of educable mind whose bodily 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. For the purposes of this Act, the term "exceptional children" shall not include those children who are eligible for the State schools for the Deaf or the Blind. The term "special services" may be interpreted to mean transportation; special teaching in the public school curriculum; corrective teaching, such as lip reading, speech correc-

tion, sight conservation, and corrective health habits; the provision of special seats, books and teaching supplies, and equipment required for the instruction of exceptional children. Acts 1945, 49th Leg., p. 668, ch. 369, Art. I.

i Articles 2922—2 to 2922—8.

Emergency. Effective June 4, 1945.

Title of Act:

An Act providing special educational services for exceptional children between the ages of six (6) and seventeen (17); defining the terms "special services" and "exceptional children"; prescribing a procedure for school districts to follow in order to become eligible for State Aid; creating a Division of Special Education in the Department of Education and defining its authority; providing for the appointment of a director of Special Education and requiring certain qualifications; requiring certain qualifications for teachers of classes of special education; providing for

certain courses of study; providing for the payment of excess cost of not over Two Hundred Dollars (\$200.00) per year above the average per capita for normal children; providing for transfer of students; appropriating Twenty-five Thousand Dollars (\$25,000.00) for the administration of, and Two Thousand Seventy-five Thousand Dollars (\$275,000.00) to carry out the provisions of this Act during the biennium beginning September 1, 1945, and ending August 31, 1947; providing for convalescent classes in approved treatment institutions; repealing all conflicting laws; providing severability and declaring an emergency. Acts 1945, 49th Leg., p. 668, ch. 369.

Art. 2922—3. Eligibility

Section 1. The School Board of any school district may establish and maintain special classes for five (5) or more exceptional children who are residents of such district and/or such exceptional children who are residents of other school districts, which cannot meet the requirements for establishing and maintaining special classes.

In any school district where the parents of five (5) or more of any type of exceptional children, or types which may be taught together, petition the Board of Education of that district for a special class, it shall be the duty of the school authorities to request the Division of Special Education of the State Department of Education to cooperate in the establishment of such class or classes under rules and regulations established for this purpose by the State Department of Education; provided also, that two (2) or more adjacent school districts may join together and contract to establish a special class or classes. In such a case the various districts are to be paid the cost of educating the children in the special class or classes over and above the average per capita cost of educating normal children in the respective school districts. In other districts where there is not sufficient number for the organization of a special class or classes, exceptional children may be entered in special classes in any other district; and all per capita apportionment paid to such district for each such child shall be transferred to the district that provides the facilities for their education by the proper authorities, as provided in Section 1 of Article 6 of this Act.¹

Sec. 2. It is further provided that to be eligible for aid under the provisions of this Act,² the school district establishing and maintaining special classes for exceptional children must file with the Division of Special Education in the State Department of Education on or before September 1st of each school year, on forms furnished by the State Department of Education, a tentative budget containing the anticipated expenditures of such special classes. On or before July 15th of each school year, each school district maintaining special classes for exceptional children shall make a detailed, accurate financial record of all moneys paid out by it for maintenance of these classes; and such financial record shall be subject to the approval of the State Superintendent of Public Instruction. The tentative budget and all forms filed with the State Department of Education must be sworn to by the Coun-

ty Superintendent and the Superintendent or Principal of the school making and filing said forms.

Sec. 3. It is further provided that in order to qualify for reimbursement, the district must include in the receipts of its budget a sum not less than the total per capita cost of educating said exceptional children who are to be taught in special classes. The State Treasurer and the State Department of Education are hereby authorized to pay within the limits set forth in Section 1, Article 5,³ to the local Board of Education of the school districts establishing and maintaining special classes for exceptional children, not more than the difference between the per capita cost of instruction and equipment for the normal children of that district in any corresponding grade of said school district, and the average per capita cost required to pay teachers' wages and the cost of special services; provided that no excess cost shall be paid for school buildings, premises, or plant.

Sec. 4. Failure on the part of the school district to prepare and certify its report of claims for the excess cost of educating exceptional children to the State Department of Education on or before July 15th of any year, and its failure thereafter to prepare and certify such report to the State Department of Education within ten (10) days after receipt of notice of such delinquency sent to it by the State Department of Education, by registered mail, shall constitute a forfeiture by the school district of its right to be reimbursed by the state for the excess cost of educating exceptional children for such year. Acts 1945, 49th Leg., p. 668, ch. 369, Art. II.

¹ Article 2922—7.

² Articles 2922—2 to 2922—8.

³ Article 2922—6.

Art. 2922—4. Supervision and Administration

Section 1. There is hereby created, in the State Department of Education, a Division of Special Education to foster, inspect, approve and supervise a program of education for exceptional children as defined in this Act;¹ and it is hereby designated as the agency for cooperation with the approved treatment centers and local schools in carrying out the provisions of this Act; and it is further provided, that said Division of Special Education in its rules and regulations shall provide for cooperation with (1) the State Crippled Children's Service; (2) the State Division of Vocational Rehabilitation; (3) the State Departments dealing with employment; (4) the local school boards and other interested agencies in providing individual counseling and guidance in social and vocational matters; and for this and other purposes the Division of Special Education may employ one or more teacher-coordinators to assist in the establishment of such services.

Sec. 2. There shall be appointed by the State Superintendent of Public Instruction a Director for the Division of Special Education. It shall be the duty of the Director of the Division of Special Education to furnish forms to all school districts making application for aid under the provisions of this Act; to take such action and to make such rules and regulations not inconsistent with the terms of this Act as may be necessary to carry out the provisions and intentions of this Act, and for the best interest of the exceptional children for whose benefit the funds are appropriated; and to determine whether the exceptional child for whom claim is made is within the class as defined by this Act and whether or not competent educational services were rendered to the child. The Director of the Division of Special Education shall hold a Master's degree from a standard institution of higher learning; shall

have completed creditably at least six semester hours in study of the education of exceptional children; and shall show evidence of at least three years of successful experience in the education of exceptional children. Acts 1945, 49th Leg., p. 668, ch. 369, Art. III.

¹ Articles 2922—2 to 2922—8.

Art. 2922—5. Teacher Qualifications and Course of Study

Section 1. No person shall be employed to teach any class for exceptional children as defined in this Act,¹ unless he possesses a valid teacher's certificate and in addition such training as the Division of Special Education may require in its rules and regulations.

Sec. 2. School boards of the districts wherein a special class or classes are established and maintained are to employ all teachers used in this service prior to the end of the school year 1947—1948; provided such teachers are approved by the Director of the Division of Special Education. After the end of the school year 1947—1948, no teacher shall be employed unless he has the qualifications as set out in Section 1, of this Article.

Sec. 3. Courses of study, relative to adequacy of methods of instruction, necessary equipment for education, and prescribed rest and diets, must be prepared and issued by the Director of the Division of Special Education with the approval of the State Superintendent of Public Instruction, to schools establishing and maintaining classes for exceptional children. It is further provided that the Division of Special Education shall cooperate with the State University and the State Teachers Colleges or any other standardized institutions of higher learning in establishing training facilities for teachers of exceptional children. Acts 1945, 49th Leg., p. 668, ch. 369, Art. IV.

¹ Articles 2922—2 to 2922—8.

Art. 2922—6. Allocation and Appropriation

Section 1. The appropriations made under the provisions of this Act,¹ and subsequent appropriations, are to be used to pay school districts, establishing and maintaining special classes, the excess cost of instructing exceptional children which cost is over and above the average per capita cost of educating normal children in the respective school districts. This aggregate excess cost shall be allocated for payment of teachers' salaries, including corrective teaching, such as lip reading, speech correction, sight conservation and corrective health habits; necessary school room equipment, and transportation. Such excess cost shall not exceed Two Hundred Dollars (\$200.00) per school year per scholastic.

Sec. 2. If a child attends a class for exceptional children in a school district other than that of his residence, the School Board of the district of his residence shall pay to the school district maintaining the class which he attends the state and county per capita apportionment received by the district, or a sum equal to the cost of educating a normal child of like grade in the district of his residence. If the per capita cost of educating a normal child of like grade in the district of his residence is smaller than the per capita cost of educating a normal child of like grade in the district where he attends, the amount of the difference may be included as part of the excess cost claimed by the school district where the child attends such class. Acts 1945, 49th Leg., p. 668, ch. 369, Art. V.

¹ Articles 2922—2 to 2922—8.

Section 3 of Article V of the act of 1945 made appropriations for the fiscal years ending Aug. 31, 1946 and Aug. 31, 1947.

Art. 2922—7. Institutional Schools

The Division of Special Education may establish or approve convalescent classes in approved treatment institutions and pay the cost thereof; however, such aggregate cost, which shall be over and above the average per capita cost of educating normal children in the respective school districts, shall not exceed Two Hundred Dollars (\$200.00) per child, per school year. The state and county available per capita apportionment for educating a normal child in the respective school district shall be transferred by the school district of the exceptional child to the approved treatment institution in which he is attending convalescent classes; and such application for transfer shall be filed in the office of the County School Superintendent on or before August 1st of each year on forms furnished by the State Department of Education. The State Crippled Children's Services and managers of such institutions shall cooperate with the Division of Special Education in such educational programs under rules and regulations jointly established by them. Acts 1945, 49th Leg., p. 668, ch. 369, Art. VI, § 1.

Art. 2922—8. Repealing and Constitutional Clauses

All laws or parts of laws in conflict herewith are hereby repealed, and in the event any provision of this Act is declared unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Act¹ shall nevertheless remain in full force and effect. Acts 1945, 49th Leg., p. 668, ch. 369, Art. VII.

¹ Articles 2922—2 to 2922—8.

TITLE 50—ELECTIONS

CHAPTER THREE—OFFICERS OF ELECTION

Art. 2937. 2920 In small precincts

Counties in which voting machines used,
 see art. 2997a, § 24.

Art. 2938. 2921 In large precincts

Counties in which voting machines used,
 see art. 2997a, § 24.

Art. 2943. 2925-26 Pay of judges and clerks

Judges and clerks of general and special elections shall be paid Five Dollars (\$5.00) a day each, and Fifty Cents (50¢) per hour each for any time in excess of a day's work as herein defined. The judge who delivers the returns of election immediately after the votes have been counted shall be paid Two Dollars (\$2.00) for that service; provided, also, he shall make returns of all election supplies not used when he makes return of the election. Ten (10) working hours shall be considered a day within the meaning of this Article. The compensation of judges and clerks of general and special elections shall be paid by the County Treasurer of the county where such services are rendered upon order of the Commissioners. As amended Acts 1945, 49th Leg., p. 128, ch. 87, § 1.

Emergency. Effective April 20, 1945.

CHAPTER FIVE—SUFFRAGE

Art. 2955a. Qualifications for voting for bond issues, lending credit expending money, or assuming debt

Elections to authorize taxes in independent districts separated from municipal control validated under 1945 act, see art. 2815g-33.

Art. 2956. 2939 Absentee voting

Subdivision 11. In counties where the towns other than the county seat have a population of four thousand (4000) inhabitants or more according to the last Federal Census, the County Clerk may appoint a Deputy Clerk in such towns for the purpose of receiving applications and accepting absentee ballots. Added Acts 1945, 49th Leg., p. 48, c. 30, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 2968. 2953 Exemption certificate in cities

Every person who is exempted by law from the payment of a poll tax, and who is in other respects a qualified voter, who resides in a city of ten thousand (10,000) inhabitants or more, shall, before the first day of February of the year when such voter shall have become entitled to such exemption, obtain from the Tax Collector of the county of his or her residence, a certificate showing his or her exemption from the payment of a poll tax.

Such exempt person shall on oath state his name, age, race, county of residence, occupation, the length of time he has resided in said coun-

ty, and the length of time in the city, and the number of the ward or voting precinct in which he resides, and shall also state his street address by name and number, if numbered, and the grounds upon which he claims exemption from the payment of a poll tax.

A certificate of exemption from the payment of poll tax shall be issued from a well-bound book, containing therein original and duplicate, and upon issue the certificate issued to the exempt voter shall be detached from said book, leaving therein a duplicate carbon or other copy thereof, which shall contain the same description and the original certificate bearing its proper number shall be delivered to the citizen in person to identify him in voting. Certificates of exemption for each precinct shall be numbered consecutively, beginning at Number One.

Certificates shall be in substantially the following form:

"CERTIFICATE OF EXEMPTION FROM THE PAYMENT OF POLL TAX

The State of Texas, County of _____, Precinct No. _____.

I, _____, Tax Collector for said County, of the State of Texas, do hereby certify that _____, personally appeared before me on the _____ day of _____ A. D. 19____, and being duly sworn declared his name to be _____, that his race is _____, that he is _____ years old, that he has resided in the State of Texas for _____ years, in _____ County for _____ years, and in _____, Texas, for _____ years; and that he now and has for the past _____ years resided in Precinct No. _____ in Ward No. _____ in said City, and that his street number is No. _____ Street; that he is exempt from the payment of a poll tax by reason of _____; and that he is a qualified voter under the Constitution and laws of the State of Texas.

Given under my hand and seal of office, this the _____ day of _____, A. D. 19____.

(Signed) _____

Tax Collector, _____, County, Texas."

All certificates of exemption shall be renewed or reissued annually.

In the event of loss of certificate of exemption, the voter may secure a reissue under his old number by making affidavit of such loss before the County Tax Collector. As amended Acts 1945, 49th Leg., p. 547, ch. 333, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

CHAPTER SIX—OFFICIAL BALLOT

Art. 2978. 2964-5-6-7-70 Official ballot

"In all elections by the people, the vote shall be by official ballot, which shall be numbered, and elections so guarded and conducted as to detect fraud and preserve the purity of the ballot. No ballot shall be used in voting at any general, primary or special election held to elect public officers, select candidates for office or determine questions submitted to a vote of the people, except the official ballot, unless otherwise authorized by law. At the top of the official ballot shall be printed in large letters the words "Official Ballot". It shall contain the printed names of all candidates whose nominations for an elective office have been duly made and properly certified. The names shall appear on the ballot under the head of the party that nominates them, except as otherwise provided by this title. No name shall appear on the official ballot except that of a candidate who was actually nominated (either as a party nominee or as a non-partisan or independent candidate) in accord-

ance with the provisions of this title. The name of no candidate shall appear more than once upon the official ballot, except as a candidate for two or more offices permitted by the Constitution to be held by the same person. The name of no candidate of any political party that cast two hundred thousand (200,000) votes or more at the last preceding general election shall be printed on any official ballot for a general election, unless nominated by primary election, on primary election day, except as herein otherwise provided. As amended Acts 1945, 49th Leg., p. 248, ch. 182, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Section 4 of the amendatory Act of 1945 read as follows: "If any section, sentence or part of this Act for any reason shall be held to be unconstitutional, void or inoperative, such decision shall not affect the

validity of the remaining sections or portions of this Act; but the remainder of the Act shall be given effect as if said invalid, unconstitutional or inoperative section or portion of a section had not been included therein."

Art. 2980. Form of ballot; presidential electors, counting votes for

All ballots shall be printed with black ink on clear white paper of uniform style and of sufficient thickness to prevent the marks thereon to be seen through the paper. The tickets of each political party shall be placed or printed on one ballot, arranged side by side in columns separated by a parallel rule. The space which shall contain the title of the office and the name of the candidate shall be of uniform style and type on said tickets. At the head of each ticket shall be printed the name of the party. When a party has not nominated a full ticket, the titles of those nominated shall be in position opposite the same office in a full ticket, and the titles of the offices shall be printed in the corresponding positions in spaces where no nominations have been made. In the blank columns and independent columns, the titles of the offices shall be printed in all blank spaces to correspond with a full ticket. When presidential electors are to be voted on, their names shall not appear on the official ballot, but the names of the candidates for President and Vice-President, respectively, of the Political Parties, as defined in the law, shall appear at the head of their respective tickets, and the votes for presidential electors of the various parties shall be canvassed, counted, and the returns made in accordance with Article 3079A and 3079B of the Revised Civil Statutes of Texas of 1925. When Constitutional Amendments or other propositions are to be voted on, the same shall appear once on each ballot in uniform style and type. As amended Acts 1945, 49th Leg., p. 247, ch. 181, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

CHAPTER SEVEN—ARRANGEMENTS AND EXPENSES OF ELECTION

Art. 2994. 2986 Collector's fees for poll taxes

The tax collector shall be paid Fifteen (15) Cents for each poll tax receipt and certificate of exemption issued by him to be paid pro rata by the State and county in proportion to the amount of poll tax received by each, which amount shall include his compensation for administering oaths, furnishing lists of qualified voters in election precincts for use in all general and primary elections and primary convention when desired, and for all duties required of him under this title. As amended Acts 1945, 49th Leg., p. 662, ch. 368, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Section 7 of the amendatory Act of 1945 repealed all conflicting laws and parts of laws.

Art. 2997a. Providing for voting machines

Sec. 17. Unofficial Ballots, Repair and Substitution of Machines. Should the official ballots for any precinct where voting machines are to be used be not delivered at the time required, or if after delivery shall be lost, destroyed or stolen, the County Clerk or the presiding officer 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 officer and signed by such officer together with every person legally serving in such poll, such certificate to be attached to the canvass from that 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 the State of Texas in which voting machines have been adopted, either in whole or in part, for use in elections and in primary elections, shall be, and it is hereby, 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; provided, however, that in no event shall payment to any one individual hereunder exceed the sum of Ten Dollars (\$10) per day exclusive of mileage. As amended Acts 1945, 49th Leg., p. 446, ch. 280, § 1.

Sec. 19. Statement of Canvass. The Authority charged with the holding of an election or primary election where voting machines shall be used, shall cause to be prepared a statement of canvass of a form to be approved by the Secretary of State, in the necessary number as now required by law, such statement of canvass to 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 on the statement of canvass. Provided however, that at the time of the making of the official canvass of said election returns, where voting machines are used in an election, the canvassing board charged with the duty of canvassing said election returns shall, at the request, in writing, of any candidate whose name appears on said election or primary election ballot, or on the petition, in writing, of twenty-five resident citizens of said county, city, or of a subdivision thereof, make, in the presence of a District Judge and County Judge of the county in which said election is held, a recheck and comparison of the results shown on the official returns, then in process of being canvassed by the canvassing board, with the results appearing and registered on the counter-dials of each voting machine or voting machines used in said election or primary election; and to enable the canvassing board to make such recheck and comparison it shall be, and hereby is, authorized and empowered to break the seals on each such voting machine or voting machines so used, and at the conclusion of said recheck and comparison, said voting machine or voting machines shall again be sealed up, the necessary corrections, if any, shall be made on the returns, and the result of said election be declared, as shown by said recheck and comparison of the returns of election, with counter-dials of the voting machines, as provided by law. As amended Acts 1945, 49th Leg., p. 446, ch. 280, § 2.

Sec. 24. Representation. The authorities charged with holding an election or primary election are directed wherever possible, in the naming of election officers, to name for each precinct, in which only one voting machine is used, a presiding officer and three (3) clerks for such precinct of opposed interest in that election or primary election and an-

other clerk who should be, whenever possible, non-partisan; and in each precinct, in which two (2) or more voting machines are used, a presiding officer and five (5) clerks for such precinct of opposed interest in that election or primary election and another clerk who should be, wherever possible, non-partisan. The number of judges and clerks herein authorized to be appointed, in all counties in which elections are conducted by the use of voting machines, shall be controlling and shall apply regardless of the provisions of Articles 2937 and 2938 of the Revised Civil Statutes of Texas, 1925, as amended. But each political party concerned in an election is entitled to name one watcher for each voting precinct where voting machines are used, said watcher to be recognized by the presiding officer, of that precinct upon the presentation of a certificate signed by the County Chairman of that political party, and any candidate for a State office, the State Senate, any candidate for Representative in the House of the Legislature of Texas, or any candidate for District Judge, or any one-fifth (1/5) of the candidates for any county offices, or any one-fifth (1/5) of the candidates for precinct offices; or any candidate for mayor, or any candidate for city commissioner in municipalities, or any three (3) candidates in a school election, or the proponents or the opponents of a bond issue, may name one watcher for each precinct in an election or primary election for each precinct where voting machines are used. Any candidate for the United States Senate or Representative in the House of the United States Congress may name one watcher for each election precinct where a voting machine is used. The candidate desiring representation by a watcher shall sign a certificate setting out the name of the person, the number of the precinct where such watcher is to serve, such certificate to bear the signature of the candidate or candidates entitled to representation, together with the signature of the bearer. The presiding officer of the election must require a counter-signature and preserve the certificate of the bearer to make certain he is the identical person referred to in the certificate but cannot for any other reason refuse to permit such watcher to serve. For their services election officials and employees shall be paid a sum to be set by the authority charged with holding the election or primary election, but not less than the amount set now by law and not more than Ten Dollars (\$10) per day, provided, however that no election official shall be paid more than the pro rata part of two (2) hours overtime after the polls are closed. Watchers, a necessary adjunct to an election with voting machines, may be paid by the interest they represent, but not to exceed Ten Dollars (\$10) per day, provided, however, that the authority holding such election shall not pay for the services of such watchers. As amended Acts 1945, 49th Leg., p. 446, ch. 280, § 3.

Emergency. Effective May 31, 1945.

Section 4 of the amendatory Act of 1945 repealed all conflicting laws and parts of laws. Section 5 read as follows: "Should any portion, section, sentence, clause, phrase or word in this bill be unconstitu-

tional or void, same shall in nowise affect and render invalid any other portion of this Act, and the Legislature declares that it would have passed and enacted all the remaining portions of this Act."

CHAPTER ELEVEN—PRESIDENTIAL ELECTORS

Arts. 3079A, 3079B.

Presidential electors, canvass and return of votes for, see art. 2980.

CHAPTER THIRTEEN—NOMINATIONS

6. MISCELLANEOUS

3167a. Nominations for two or more state offices of same classification [New].

1. BY PARTIES OF ONE HUNDRED THOUSAND VOTES AND OVER

Art. 3101. 3084 Nominated at primary

On primary election day in 1946, and every two years thereafter, candidates for Governor and for all other State offices to be chosen by vote of the entire State, and candidates for Congress and all district offices to be chosen by the vote of any district comprising more than one county, to be nominated by each organized political party that cast two hundred thousand (200,000) votes or more at the last general election, shall, together with all candidates for offices to be filled by the voters of a county, or of a portion of a county, be nominated in primary elections by the qualified voters of such party. As amended Acts 1945, 49th Leg., p. 248, ch. 182, § 2.

Effective 90 days after June 5, 1945, date of adjournment.

2. BY PARTIES OF 10,000 AND LESS THAN 200,000 VOTES

Art. 3154. 3159 May nominate

Each political party, whose nominee for Governor in the last preceding general election received as many as ten thousand (10,000) votes and less than two hundred thousand (200,000) votes, may nominate candidates for State, district and county offices under the provisions of this law by primary election, and they may nominate candidates for State offices and for United States Senator at a State convention, which shall be held the second Tuesday in August, and which shall be composed of delegates selected in the various counties and county conventions held on the first Saturday after primary election day, which shall be composed of delegates from the general election precincts in such counties elected therein at primary conventions, held in such precincts on the fourth Saturday in July. As amended Acts 1945, 49th Leg., p. 248, ch. 182, § 3.

Effective 90 days after June 5, 1945, date of adjournment.

6. MISCELLANEOUS

Art. 3167a. Nominations for two or more state offices of same classification

That whenever nominations for two or more state offices of the same classification are to be made at the same primary or general election, each such office shall be separately designated on the official ballot used at such primary or general election by numbering the places as "No. 1", "No. 2", "No. 3", etc., and candidates for each place shall be separately nominated. Such designations shall be made by the State Committee of the political party holding the election. Each candidate for nomination for such offices shall designate in the announcement of his candidacy, and in his request to have his name placed on the official primary ballot, the number of the

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

nomination or place 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. No person shall be a candidate for more than one of such places. Acts 1945, 49th Leg., p. 386, ch. 222, § 1.

Emergency. Effective May 28, 1945.

Title of Act:

An Act providing that the official ballots to be used in primary or general elections

shall designate places for nominations for candidates for two or more state offices of the same classification, and declaring an emergency. Acts 1945, 49th Leg., p. 386, ch. 222.

TITLE 51—ELEEMOSYNARY INSTITUTIONS

CHAPTER TWO—STATE HOSPITALS

Art.

3192b. Galveston State Psychopathic Hospital transferred to Board of Re-

gents of University of Texas [New].

Art. 3192b. Galveston State Psychopathic Hospital transferred to Board of Regents of University of Texas

Section 1. That from and after the effective date of this Act, the control and management of, and all rights, privileges, powers, and duties incident thereto, the Galveston State Psychopathic Hospital, located at Galveston, Texas, which were formerly vested in and exercised by the State Board of Control, shall be transferred to, vested in, and exercised by the Board of Regents of The University of Texas, and, hereafter, the aforesaid Hospital shall no longer be a part of the eleemosynary service of the State of Texas.

Sec. 2. The Galveston State Psychopathic Hospital shall continue to be used as a Hospital for the treatment of nervous and mental diseases, both in the Hospital and out-patient clinic, and shall be available as a part of the teaching facilities in mental medicine for the School of Medicine of The University of Texas, located at Galveston, Texas. Acts 1945, 49th Leg., p. 384, ch. 246.

Emergency. Effective May 24, 1945.

Section 3 of the amendatory Act of 1945 repealed all conflicting laws and parts of laws.

Title of Act:

An Act to transfer the control and management of the Galveston State Psychopathic Hospital from the State Board of

Control to the Board of Regents of The University of Texas; providing said Hospital shall no longer be a part of the eleemosynary service of Texas; repealing all laws or parts of laws in conflict; and declaring an emergency. Acts 1945, 49th Leg., p. 384, ch. 246.

CHAPTER THREE—OTHER INSTITUTIONS

TEXAS SCHOOL FOR THE BLIND

COLORED GIRLS TRAINING SCHOOL

Art.

3207c. Vocational rehabilitations of blind [New].

Art.

3259b. Acquisition or construction and equipment of colored girls' training school; salaries [New].

SOUTH TEXAS TUBERCULOSIS SANATORIUM [NEW].

3254b. Acceptance of title; control and supervision.

Art. 3202—a. Price for care

The Board of Control, directly or through an authorized agent or agents, may make contracts fixing the price for the support, maintenance and treatment of children maintained, supported and treated, in the State Orphans Home, the State Home for Dependent and Neglected Children, the Texas School for the Deaf, the Texas School for the Blind, Austin State School, and the Deaf, Dumb and Blind Institute for Colored Youths, at a sum fixed by the State Board of Control, not to exceed the actual cost of supporting such child, or for such part thereof as the estate of said child or any person legally liable for such child's support may be able to pay or agree to pay, and binding the person making such contracts to payments thereunder. The costs of educating such children,

however, shall not be included in arriving at such costs. Such payments by guardians shall be in accordance with the legal method controlling expenditures by guardians. The Board of Control is authorized to demand investigation to determine whether or not a child is possessed of or entitled to property and whether or not some other person is legally liable for his support and to pay therefor. The county judge of the county from which the child is received into such institution or the county having jurisdiction over the estate of such child, may from time to time, upon the request of the State Board of Control, cite the guardian of such child, or other persons legally liable for his support, to appear at some regular term of the county court having jurisdiction of such matter, then and there to show cause why the State should not be paid or have judgment for the amount due it for the support and maintenance of such child; or such guardian or other persons legally liable for the support of such child may be cited to appear at some regular term of the district court having jurisdiction of such matter, then and there to show cause why the State should not have judgment for the amount due it for the support and maintenance of such child; and, if sufficient cause be not shown, judgment may be entered against such guardian or other persons for the amount found to be due the State, which judgment may be enforced as in other cases. The certificate of the superintendent of the State institution or school wherein such child is being, or shall have been supported and maintained, as to the amount due, shall be sufficient evidence to authorize the Court to render judgment. The county or district attorney, upon request of the State Board of Control, shall appear and represent the State in all cases provided for in this Section; provided, however, that the provisions of this Act shall not apply to any child maintained, supported or treated in the Texas School for the Deaf; Texas School for the Blind; Deaf, Dumb and Blind Institute for Colored Youths, unless the person legally liable for the support of such child agrees to pay such cost as is herein provided. As amended Acts 1945, 49th Leg., p. 50, c. 33, § 1.

Emergency. Effective March 20, 1945.

TEXAS SCHOOL FOR THE BLIND

Art. 3207c. Vocational rehabilitation of blind

Section 1. Definitions. As used in this Act:

- (a) "Commission" means the State Commission for the Blind;
- (b) "Division" means the Division of Vocational Rehabilitation established by this Act;
- (c) "Director" means the Executive Secretary-Director of the State Commission for the Blind;
- (d) "Employment handicap" means a physical or mental condition which constitutes, contributes to or if not corrected will probably result in an obstruction to occupational performance;
- (e) "Disabled individual" means any person who has a substantial employment handicap;
- (f) "Blind" means a person having not more than 20/200 of visual acuity in the better eye with correcting lenses; or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees;
- (g) "Vocational rehabilitation" and "vocational rehabilitation services" mean any services, provided directly or through public or private

instrumentalities, found by the Director to be necessary to compensate a blind disabled individual for his employment handicap, and to enable him to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance, counselling and placement, rehabilitation training, physical restoration, transportation, occupational licenses, customary occupational tools and equipment, maintenance, and training books and materials;

(h) "Rehabilitation training" means all necessary training provided to a blind disabled individual to compensate for his employment handicap including, but not limited to, manual, pre-conditioning, pre-vocational, vocational, and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and capacities;

(i) "Physical restoration" means any medical, surgical or therapeutic treatment necessary to correct or substantially reduce a disabled blind individual's employment handicap within a reasonable length of time including, but not limited to, medical, psychiatric, dental and surgical treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory conditions;

(j) "Prosthetic appliance" means any artificial device necessary to support or take the place of any part of the body or to increase the acuity of a sense organ;

(k) "Occupational licenses" means any license, permit or other written authority required by any governmental unit to be obtained in order to engage in an occupation;

(l) "Maintenance" means money payments not exceeding the estimated cost of subsistence during vocational rehabilitation;

(m) "Regulations" means regulations made by the Director with the approval of the State Commission for the Blind.

Sec. 2. Establishment of Division of Vocational Rehabilitation. There is hereby established in the State Commission for the Blind a Division of Vocational Rehabilitation.

Sec. 3. Director of State Commission for the Blind. The Division shall be administered, under the general supervision and direction of the Commission, by a Director appointed by such Commission in accordance with established personnel standards and on the basis of his education, training, experience, and demonstrated ability. In carrying out his duties under this Act the Director:

(a) shall make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, and investigation and determination thereof, for vocational rehabilitation services, procedures for fair hearings and such other regulations as he finds necessary to carry out the purposes of this Act;

(b) shall, with the approval of the Commission establish appropriate subordinate administrative units within the Division;

(c) shall, with the approval of the Commission, appoint such personnel as he deems necessary for the efficient performance of the functions of the Division;

(d) shall prepare and submit to the Commission annual reports of activities and expenditures and, prior to each Regular Session of the Legislature, estimates of sums required for carrying out this Act and estimates of the amounts to be made available for this purpose from all sources;

(e) shall make certification for disbursement, in accordance with regulations, of funds available for vocational rehabilitation purposes;

(f) shall, with the approval of the Commission, take such other action as he deems necessary or appropriate to carry out the purposes of this Act;

(g) may, with the approval of the Commission, delegate to any officer or employee of the Division such of his powers and duties, except the making of regulations and the appointment of personnel, as he finds necessary to carry out the purposes of this Act.

Sec. 4. Administration. The Commission, through the Division, shall provide vocational rehabilitation services to blind disabled individuals determined by the Director to be eligible therefor and, in carrying out the purposes of this Act, the Division is authorized, among other things:

(a) To cooperate with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of blind disabled individuals, in studying the problems involved therein, and in establishing, developing and providing, in conformity with the purposes of this Act, such programs, facilities, and services as may be necessary or desirable;

(b) to enter into reciprocal agreement with other States to provide for the vocational rehabilitation of residents of the States concerned;

(c) to conduct research and compile statistics relating to the vocational rehabilitation of disabled blind individuals.

Sec. 5. Cooperation with Federal Government. The Commission, through the Division, shall cooperate, pursuant to agreements, with the Federal Government in carrying out the purposes of any Federal statutes pertaining to vocational rehabilitation and is authorized to adopt such methods of administration as are found by the Federal Government to be necessary for the proper and efficient operation of such agreements or plans for vocational rehabilitation; provided, however, that the Commission shall not adopt any rule or regulation which is inconsistent with existing State laws, and to comply with such conditions as may be necessary to secure the full benefits of such Federal statutes.

Sec. 6. Receipt and Disbursement of Vocational Rehabilitation Funds. The State Treasurer is hereby designated as the custodian of all funds received from the Federal Government for the purpose of carrying out any Federal statutes pertaining to vocational rehabilitation. The State Treasurer shall make disbursements from such funds and from all State funds available for vocational rehabilitation purposes upon certification in the manner provided in Section 3 (e).

Sec. 7. Gifts. The Director is hereby authorized and empowered, with the approval of the Commission, to accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this Act. Gifts made under such conditions as in the judgment of the Commission are proper and consistent with the provisions of this Act may be so accepted and shall be held, invested, reinvested, and used in accordance with the conditions of the gift.

Sec. 8. Eligibility for Vocational Rehabilitation. Vocational rehabilitation services shall be provided to any blind disabled individual (1) who is a resident of the State at the time of filing his application therefor and whose vocational rehabilitation, the Director determines after full investigation, can be satisfactorily achieved, or (2) who is eligible therefor under the terms of an agreement with another State or with the Federal Government: Provided, that, except as otherwise provided by law or as specified in any agreement with the Federal Government with respect to classes of individuals certified to the Commission thereunder, the following rehabilitation services shall be provided

at public cost only to disabled blind individuals found to require financial assistance with respect thereto:

- (a) Physical restoration;
- (b) transportation not provided to determine the eligibility of the individual for vocational rehabilitation services and the nature and extent of the services necessary;
- (c) occupational licenses;
- (d) customary occupational tools and equipment;
- (e) maintenance;
- (f) training books and materials.

Sec. 9. Maintenance not Assignable. The right of a disabled blind individual to maintenance under this Act shall not be transferable or assignable at law or in equity.

Sec. 10. Hearings. Any individual applying for or receiving vocational rehabilitation who is aggrieved by any action or inaction of the Division shall be entitled, in accordance with regulations, to a fair hearing by the Commission.

Sec. 11. Misuse of Vocational Rehabilitation Lists and Records. It shall be unlawful, except for purposes directly connected with the administration of the vocational rehabilitation program, and in accordance with regulations, for any person or persons to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any list of, or names of, or any information concerning, persons applying for or receiving vocational rehabilitation, directly or indirectly derived from the records, papers, files, or communications of the State or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

Sec. 12. Limitation of Political Activity. No officer or employee engaged in the administration of the vocational rehabilitation program shall use his official authority or influence or permit the use of the vocational rehabilitation program for the purpose of interfering with an election or affecting the results thereof or for any partisan political purpose. No such officer or employee shall take any active part in the management of political campaigns or participate in any political activity, except that he shall retain the right to vote as he may please and to express his opinions as a citizen on all subjects. No such officer or employee shall solicit or receive, nor shall any such officer or employee be obliged to contribute or render, any service, assistance, subscription, assessment, or contribution for any political purpose. Any officer or employee violating this provision shall be subject to discharge or suspension.

Sec. 14. Separability. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby. Acts 1945, 49th Leg., p. 374, ch. 24.

Emergency. Effective May 24, 1945.

Section 13 of the Act of 1945 repealed all conflicting laws and parts of laws.

Title of Act:

An Act establishing a Vocational Rehabilitation Division within the State Commission for the Blind; defining certain words and phrases as used in this Act; providing that the Director of the State Commission for the Blind shall administer the provisions of this Act and imposing upon him certain duties; authorizing the

Commission to provide vocational rehabilitation services for disabled blind individuals; authorizing the Commission to cooperate with other agencies; to conduct research and compile statistics; providing for cooperation with the Federal government; providing for receipt and disbursement of vocational rehabilitation funds by the State Treasurer; authorizing the Commission to accept gifts to be used in carrying out the purposes of this Act; providing for the eligibility of vocational re-

habilitation; providing that maintenance shall not be transferable or assignable at law or equity; providing for a fair hearing of a blind disabled individual by the Commission; providing that misuse of lists and records of individuals by the Commis-

sion shall be unlawful; providing for the limitation of political activity by employees; providing for the repealing of laws in conflict; providing for a separability clause; and declaring an emergency. Acts 1945, 49th Leg., p. 374, ch. 241.

SOUTH TEXAS TUBERCULOSIS SANATORIUM [NEW]

Art. 3254b. Acceptance of title; control and supervision

Section 1. The State Board of Control is hereby authorized to accept for the State of Texas title to all the said land, which must be described by metes and bounds, buildings, and equipment referred to in the preamble hereof, by proper conveyance or conveyances from the City of Laredo, Texas, and the Webb County Tuberculosis Association, a corporation as aforesaid, for the purpose of operating and maintaining a state tuberculosis sanatorium at Laredo, Texas, to be known and which is hereby designated, subject to the following provisions hereof, as the South Texas Tuberculosis Sanatorium. Before title to said property can be accepted by said Board of Control, however, the owner of said land must furnish said Board of Control with an abstract or satisfactory certificate of title thereto, showing good and merchantable title in the City of Laredo, Texas, and said title and conveyance thereof must first receive the written approval of the Attorney General of this state. The Attorney General must also be satisfied, to be evidenced by his written approval, that the title to all of the buildings, and equipment owned by the Webb County Tuberculosis Association is free and clear of all liens before any conveyance thereof can be accepted by said Board of Control. Unless and until title to all of said land, buildings and equipment receive the written approval of the Attorney General of Texas, no conveyance of any of such property shall be accepted by the said Board of Control.

Sec. 2. Upon acceptance of title by proper conveyance or conveyances of said lands, buildings, and equipment, as hereinabove authorized, the State Board of Control shall thereafter have the control and supervision of said South Texas Tuberculosis Sanatorium, with like powers in connection therewith as are now possessed by said Board of Control in connection with the State Tuberculosis Sanatorium at Carlsbad, Tom Green County, Texas, except that the Board of Control shall also have the authority to accept for the said South Texas Tuberculosis Hospital contributions or gifts of money, equipment, materials, supplies or personal services to be received and used by said hospital under the direction of the Board of Control.

Sec. 4. If any section or provision of this Act shall be declared unconstitutional, the remaining sections or provisions hereof shall not be affected by such invalidity; and the Legislature hereby declares it would have enacted such remaining sections and provisions regardless of such unconstitutional provisions of this Act. Acts 1945, 49th Leg., p. 659, ch. 366.

Effective 90 days after June 5, 1945, date of adjournment.

Section 3 of the Act of 1945 read as follows:

"There is hereby appropriated to the South Texas Tuberculosis Sanatorium, upon the establishment of same as herein provided, for the support, operation and maintenance of same, the sum of Twenty-five Thousand (\$25,000.00) Dollars for each

fiscal year ending August 31, 1946 and August 31, 1947; and, in addition, the State Board of Control is hereby authorized to accept and permit the participation of funds, gifts or services from other than state appropriations for the operation and maintenance of said South Texas Tuberculosis Sanatorium."

Preamble:

"WHEREAS, the Webb County Tuber-

culosis Association, a non-profit charitable corporation, has since on or about May 1st, 1941, operated the City-County Tuberculosis Hospital at Laredo, Texas, as a tuberculosis sanatorium, until succeeded in the operation of said hospital by the City of Laredo and the County of Webb, who have for some time operated such hospital through a joint board of managers; and whereas, said hospital having facilities for twenty-five (25) patients, is located on approximately ten (10) acres of land in said City of Laredo, which land and two buildings thereon are owned by said city, while five (5) other buildings thereon and all equipment in all of said buildings are owned by the Webb County Tuberculosis Association; and whereas, said City-County Tuberculosis Hospital has been maintained and supported by contributions from the City of Laredo and from Webb County and from private sources, thus enabling such hospital to render a valuable health service to many unfortunate patients in the southern part of our state; and

"WHEREAS, Laredo, situated on the main arterial traffic routes to countries to the south, has abnormally high rate of susceptibility to tuberculosis infection; and whereas, many of the inhabitants of that section of the state are migratory and constantly travel to and work in all other parts of Texas and other states of the union; and whereas, the people, not only of that section but of all Texas, are thereby placed in great jeopardy through the spread of tuberculosis infection by the migrants from that particular area who travel the state; and whereas, the situation thus created can best be met by treatments and preventative measures at the point of origin of such unusual danger to the health of the people of our state in order to prevent the spread of such dreaded disease through other portions of our state; and whereas, the said City-County Tuberculosis Hospital aforesaid is rendering invaluable service to our state in caring for as many unfortunate tubercular patients as possible, but is unable, for

lack of funds, to expand and enlarge sufficiently to care for many other patients who deserve and need admittance to its facilities; and

"WHEREAS, the City of Laredo and the Webb County Tuberculosis Association are ready and willing to convey the title to all of said lands, buildings, and equipment to the State of Texas, and to continue to aid and assist in the operation of such hospital by grants, gifts and contributions of money, equipment, materials, supplies and personal services, if the state will accept same for the purpose of maintaining and operating a state tuberculosis sanatorium at Laredo, Texas, without additional consideration on the state; now, therefore,"
Title of Act:

An Act authorizing the state to accept from the City of Laredo, Texas, and from the Webb County Tuberculosis Association, a corporation, title to and conveyance of all lands and all buildings thereon and equipment therein, which lands, buildings, and equipment are now being used by the City-County Tuberculosis Hospital (formerly the Laredo Sanatorium) for a Tuberculosis Sanatorium, and operated by the Webb County Tuberculosis Association, and which land consists of approximately ten (10) acres, the number of buildings thereon being seven (7), and the equipment therein being considerable, all of which are located in the City of Laredo, Webb County, Texas; providing the purpose for which said premises are to be used and the establishment of said purpose; providing for the operation thereof under the supervision of the State Board of Control; making an appropriation for such operation and maintenance; authorizing said Board of Control to accept and permit the participation of grants, bonds, funds, materials, supplies or personal services from other than state appropriations for the operation and maintenance of the institution for which said premises and equipment are to be used; providing a saving clause; and declaring an emergency. Acts 1945, 49th Leg., p. 659, ch. 366.

COLORED GIRLS TRAINING SCHOOL

Art. 3259b. Acquisition or construction and equipment of colored girls' training school; salaries

Section 1. The State Board of Control is hereby authorized to acquire, purchase, construct or recondition, and equip a school for the care, education and training of dependent and delinquent colored girls pursuant to the provisions of Senate Bill No. 239, Chapter 293 of the Acts of the 40th Legislature, Regular Session,¹ at a cost of not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00).

Sec. 3. The Board of Control shall fix the salaries of the Superintendent and all employees of said institution, which salaries shall not exceed those paid for similar services at other comparable state institutions. Acts 1945, 49th Leg., p. 136, ch. 92.

¹ Article 3259a, Pen. Code, art. 333a.

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

Emergency. Effective April 24, 1945.

Section 2 of the Act of 1945 appropriated \$150,000 for the acquisition or construction or reconditioning and equipment of the school and appropriated \$30,000 for maintenance for each of the years ending August 31, 1946 and August 31, 1947.

Title of Act:

An Act authorizing the State Board of Control to acquire and/or construct and/or recondition and equip a State Training School for dependent and delinquent colored girls at a cost of not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00); appropriating One Hundred Fifty Thou-

sand Dollars (\$150,000.00) for such purpose, and further appropriating Thirty Thousand Dollars (\$30,000.00) for the maintenance and operation of said institution for the year ending August 31, 1946 and Thirty Thousand Dollars (\$30,000.00) for such maintenance and operation for the year ending August 31, 1947; authorizing the State Board of Control to fix salaries of the Superintendent and employees thereof at amounts not exceeding those paid for comparable positions in similar state institutions; and declaring an emergency. Acts 1945, 49th Leg., p. 136, ch. 92.

TITLE 52—EMINENT DOMAIN

Art. 3269. 6531, 4472 Practice in case specified

When the State of Texas, or any county, incorporated city, or other political subdivision, having the right of eminent domain, or any person, corporation or association of persons, having such right, is a party, as plaintiff, defendant or intervenor, to any suit in a District Court, in this State, for property or for damages to property occupied by them or it for the purposes of which they or it have the right to exercise such power of eminent domain, or when a suit is brought for an injunction to prevent them or it from going upon such property or making use thereof for such purposes, the Court in which such suit is pending may determine the matters in dispute between the parties, including the condemnation of the property and assessment of damages therefor, upon petition of the plaintiff, cross-bill of the defendant or plea of intervention by the intervenor asking such remedy or relief; and such petition, cross-bill of plea of intervention asking such relief shall not be an admission of any adverse party's title to such property; and in such event the condemnor may assert his or its claim to such property and ask in the alternative to condemn the same if he or it fails to establish such claim; and provided that, if injunctive relief be sought, the Court may grant such relief under the Statutes and Rules of Equity, or may, as a prerequisite for denying such relief, require the party seeking condemnation to give such security as the Court may deem proper for the payment of any damages that may be assessed on such party's pleading for condemnation. As amended Acts 1945, 49th Leg., p. 404, ch. 259, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Section 2 of the act of 1945 read as follows: "Should any section, clause, or paragraph of this Act be held unconstitutional,

the same shall not affect any other clause, section, sentence, or paragraph, and any other section, sentence, or paragraph not affected by such holding shall remain in full force and effect."

TITLE 54—ESTATES OF DECEDENTS

CHAPTER THREE—GENERAL PROVISIONS

Art.

3310b. Posting; manner and sufficiency;
return [New].

Art. 3310b. Posting; manner and sufficiency: return

In any probate matter where citation or notice is required to be served by posting and such citation or notice is issued in conformity with the applicable statute or statutes, the citation or notice and the service and return thereof shall be sufficient and valid if the sheriff or any constable of the county wherein the probate matter is pending, posts a copy or copies of such citation or notice at the place or places prescribed by the applicable statute or statutes on a day which is sufficiently prior to the return day named in such citation, or notice for the period of time for which such citation or notice is required to be posted to elapse before the return day named in such citation or notice, and the fact that such sheriff or constable makes his return on such citation or notice and returns same into court before the period of time for which such citation or notice is required to be posted elapses, shall not affect the sufficiency or validity of such citation or notice or the service or return thereof even though such return is made, and such citation or notice is returned into court on the same day it is issued. Acts 1945, 49th Leg., p. 296, ch. 214, § 1.

Emergency. Effective May 16, 1945.

Title of Act:

An Act relating to the posting and return of citations and notices in probate matters; clarifying the duties of the sher-

iff or constable serving citations or notices in probate matters required to be served by posting; and declaring an emergency. Acts 1945, 49th Leg., p. 296, ch. 214.

CHAPTER FIVE—PROBATE OF WILLS

Art. 3344. 3267, 1900, 1847 Proof of written will produced in court

A written will produced in court may be proved:

1. By the affidavit of one of the subscribing witnesses thereto, taken in open court and subscribed by such witness.
2. If all the witnesses are non-residents of the county, or those residents of the county are unable to attend court, by the testimony of any one or more of them taken by deposition.
3. If none of the witnesses are living, or if all such witnesses are members of the Armed Forces of the United States of America or any Auxiliary thereto, or of the Armed Force Reserve of the United States of America or any Auxiliary thereto and beyond the jurisdiction of the Court, by two witnesses to the handwriting of the subscribing witnesses thereto, and of the testator, if signed by him, proof may be either by affidavit taken in open court and subscribed by the witnesses, or by deposition.
4. If the will was wholly written by the testator, by two witnesses to his handwriting, which may be made by affidavit taken in open court and subscribed to by the witnesses, or by deposition. As amended Acts 1945, 49th Leg., p. 468, ch. 296, § 1.

Emergency. Effective June 4, 1945.

Art. 3348. 3271, 1904, 1851 Facts which must be proved

Before admitting a will to probate, it must be proved to the satisfaction of the court:

1. That the testator, at the time of executing the will, was at least twenty-one (21) years of age, or was married, or was a member of the Armed Forces of the United States or the Auxiliaries thereof or Maritime Service at the time of the making of the will, that he was of sound mind, and that he is dead.

2. That the court has jurisdiction of his estate.

3. That citation has been served and returned in the manner and for the length of time required by law.

4. That the testator executed the will with the formalities and solemnities and under the circumstances required by law to make it a valid will.

5. That such will has not been revoked by the testator. As amended Acts 1945, 49th Leg., p. 469, ch. 297, § 2.

Emergency. Effective June 4, 1945. unconstitutional or otherwise invalid, it shall not affect the validity of the remaining portion thereof." Section 3 of the amendatory Act of 1945 read as follows: "If any section, sentence, clause or phrase of this Act is held to be

CHAPTER EIGHT--OATH AND BOND OF EXECUTORS AND ADMINISTRATORS**Art. 3386. 3309, 1942, 1889 Bond of executors and administrators**

Before the issuance of letters testamentary or of administration, the person to whom letters are granted, shall enter into bond, to be approved by, and payable to, the county judge of the county, in such penalty as he may direct, in an amount, if the sureties be natural persons, equal to double the estimated value of the personal property belonging to such estate, plus a reasonable amount to be fixed at the discretion of the county judge, to cover rents, revenues, and income derived from renting or use of real estate belonging to such estate, but if the surety or sureties on said bond be either a domestic or foreign corporation, or corporations, permitted to do business in the State of Texas for the purpose of issuing surety, guaranty or indemnity bonds, guaranteeing the fidelity of executors, administrators and guardians, then such bond shall be in an amount equal to the estimated value of the personal property belonging to such estate, plus a reasonable amount to be fixed at the discretion of the county judge to cover rents, revenues and income derived from the renting or use of real estate belonging to such estate; provided, in case of a temporary administrator, the bond shall be in such sum as the county judge may direct. The cost of any such bond of an executor or administrator, executed by a domestic or foreign corporation authorized to do business in Texas as hereinabove provided, may be paid out of the estate being administered. As amended Acts 1945, 49th Leg., p. 525, ch. 316, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Section 6 of the amendatory Act of 1945 repealed all conflicting laws and parts of laws.

CHAPTER TWENTY-ONE--SALES**Art. 3576. 3501, 2134, 2080 Order of court; amount of bond executed by corporation**

Whenever any property of an estate is ordered to be sold by the county judge, such order shall be entered upon the minutes of the court,

shall describe the property to be sold, the time and place of sale, and the terms of said sale, and shall require the executor or administrator to file a good and sufficient bond, subject to the approval of the court, and if the sureties on said bond are natural persons, same shall be in an amount equal to twice the amount for which such real estate is sold, but if the surety on said bond is either a domestic or foreign corporation permitted to do business in this State for the purpose of issuing surety, guaranty, or indemnity bonds guaranteeing the fidelity of executors, administrators and guardians, same shall be equal to the amount for which such real estate is sold, plus any additional sum the court shall find necessary and fix for the protection of said estate; provided that where the sale of such real estate is made to the owner or holder of a secured claim against the estate the sale of the real estate securing such claim, and is in full payment, liquidation and satisfaction thereof, no bond shall be required except for the amount of cash, if any, actually received by such executor or administrator in excess of the amount necessary to pay, liquidate and satisfy such claim in full. As amended Acts 1945, 49th Leg., p. 525, ch. 316, § 2.

Effective 90 days after June 5, 1945, date of adjournment.

TITLE 55—EVIDENCE

Art. 3746. 3657, 2281, 2226 Officers authorized to execute

The commission shall be addressed to the following officers, either of whom may execute and return the same:

1. If the witness be alleged to reside or be within the State, to any clerk of the District Court, any judge or clerk of the County Court, or any notary public of the proper county.

2. If the witness be alleged to reside or be without the State, and within the United States, to any clerk of a Court of Record having a seal, any notary public, or any commissioner of deeds duly appointed under the laws of this State within some other State or territory.

3. If the witness is alleged to reside or be without the United States, to any notary public or any minister, commissioner or charge d'affairs of the United States resident in, and accredited to, the country where the deposition may be taken, or any consul-general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul or consular agent of the United States resident in such country.

4. If the witness is alleged to be a member of the Armed Forces of the United States or of the Auxiliaries thereof or a civilian employed by or accompanying any such Forces or Auxiliaries, without the territorial confines of the forty-eight states and the District of Columbia of the United States of America, such commission may be addressed to any commissioned officer in the Armed Forces of the United States of America, in the Auxiliaries thereto, or to any commissioned officer in the Armed Force Reserve of the United States of America or any Auxiliary thereto. When any deposition appears on its face to have been taken in compliance with the provisions of this Section and when such deposition, or any part thereof, is offered in evidence, it shall be presumed, in the absence of pleading and proof to the contrary, that the person taking such deposition as a commissioned officer was such on the date on which the deposition was taken and that the witness whose deposition was taken was one of those with respect to whom such action is hereby authorized. As amended Acts 1945, 49th Leg., p. 221, ch. 164, § 1.

Emergency. Effective May 7, 1945.

TITLE 58—EXPRESS COMPANIES

Article 3860. 3819, 2428 Declared common carriers

Express companies as common carriers under Interstate Commerce Act and regulation by Interstate Commerce Commission, see 49 U.S.C.A. § 1 et seq.

TITLE 61—FEEES OF OFFICE

CHAPTER ONE—GENERAL PROVISIONS

Art.

<p>3912e—4a. District and county officers in counties of over 500,000; compensation; assistants to county treasurer and district attorneys [New].</p>	<p>3912e—8. Salaries of county attorneys in counties of over 190,000 [New].</p> <p>3912e—9. Salaries of certain officers in counties of 300,000 to 500,000 [New].</p>
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Art. 3883. 3881 to 3883 Maximum fees

3. In counties containing as many as thirty-seven thousand, five hundred and one (37,501) and not more than sixty thousand (60,000) inhabitants, or containing a city of over twenty-five thousand (25,000) inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Thirty-five Hundred Dollars (\$3500) each; Justice of the Peace and Constable, Twenty-four Hundred Dollars (\$2400) each. As amended Acts 1945, 49th Leg., p. 541, ch. 327, § 1.

Emergency. Effective June 13, 1945.

Art. 3891. 3889 Disposition of fees

(a) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars. Added Acts 1945, 49th Leg., p. 244, ch. 179, § 1.

<p>Emergency. Effective May 9, 1945. Section 5 of the Act of 1945 read as follows: "That Section 2 of Article 3934, Revised Civil Statutes of Texas, 1925, be</p>	<p>and the same is hereby in all things repealed; and all laws or parts of laws in conflict with the provisions of this Act are hereby repealed insofar as they conflict."</p>
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Art. 3899b. Offices, office supplies, furniture and automobiles; aid for district attorneys

Section 1. There shall be allowed to County Judges, Clerks of the District and County Courts, Sheriffs, County Treasurers, Tax Assessors and Collectors, such books, stationery, including blank bail bonds and blank complaints, and office furniture as may be necessary for their offices, to be paid for on the order of the Commissioners Court out of the County Treasury; and suitable offices shall also be provided by the Commissioners Court for said officers at the expense of the county. And such books and stationery as are necessary in the performance of their duties shall

also be furnished Justices of the Peace by said Commissioners Court. Provided all purchases herein must be approved by Commissioners Court, and must be made under the provisions of Article 1659, Revised Civil Statutes of Texas, 1925.

Sec. 2. Suitable offices and stationery and blanks necessary in the performance of their duties may in the discretion of the Commissioners Court also be furnished to resident District Judges, resident District and County Attorneys, County Superintendents and County Surveyors, and may be paid for on order of the Commissioners Court out of the County Treasury.

Sec. 3. In addition to the expenditures authorized in the preceding paragraphs, Nos. 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 Collector 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 Four (4) Cents 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 (\$2500) 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 1945, 49th Leg., p. 182, ch. 140, § 1.

¹ Article 3912e.

Emergency. Effective May 1, 1945.

Art. 3902. 3903 Deputies, assistants or clerks; appointment; compensation and salaries

9. The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputies, assistants and clerks of any district, county or precinct officer justify the increase, to enter an order increasing the compensation of such deputy, assistant or clerk in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed Thirty-six Hundred (\$3600.00) Dollars. Added Acts 1945, 49th Leg., p. 244, ch. 179, § 2.

Emergency. Effective May 9, 1945.

Assistant county attorneys in counties of 60,001 to 100,000, see article 331b-3.

Art. 3912e. Method of compensation of district and certain designated county and precinct officers

Commissioners' Court to fix salaries of certain officers; increase

(a) The Commissioners Court may authorize the employment of a stenographer by the county judge and pay for such services out of the General Fund of the county to an amount not to exceed Fifteen Hundred Dollars (\$1500) per year. As amended Acts 1945, 49th Leg., p. 626, ch. 356, § 1.

Emergency. Effective June 18, 1945.

(e) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars. Added Acts 1945, 49th Leg., p. 244, ch. 179, § 3.

Emergency. Effective May 9, 1945.

Commissioners' Court to fix salaries of county and precinct officers in counties of less than 20,000; increase

(b) The Commissioners Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars. Added Acts 1945, 49th Leg., p. 244, ch. 179, § 4.

Emergency. Effective May 9, 1945.

Additional compensation to county attorney performing duties of district at-

torney in a county within two judicial districts, see art. 199(107).

Art. 3912e—1. Compensation of designated officers in counties of 225,000 to 500,000

(a) The provisions of this Section shall apply to and control in each county in the State of Texas having a population of two hundred and twenty-five thousand (225,000) inhabitants or more, and less than five hundred thousand (500,000) inhabitants according to the last preceding Federal Census.

(b) From and after the effective date of this Act up to January 1, 1946, the County Judge, the Sheriff, District Attorney, Criminal District Attorney, District Clerk, County Clerk and the Assessor and Collector of Taxes of such counties shall each receive a salary of Sixty-five Hundred Dollars (\$6500) per annum. The County Treasurer of such counties shall receive Thirty-six Hundred Dollars (\$3600) per annum salary. The Judges of the County Courts at Law and the County Criminal Courts of such counties shall each receive a salary of Five Thousand Dollars (\$5000) per annum. All of such salaries enumerated in this subsection shall be paid out of the General Fund of such counties.

(c) The County Commissioners of such counties shall each receive a salary of Forty-eight Hundred Dollars (\$4800) per annum, Thirty-six Hundred Dollars (\$3600) of which shall be paid out of the General Fund and Twelve Hundred Dollars (\$1200) of which shall be paid out of the Road and Bridge Funds of such counties.

(d) All Justices of the Peace and Constables of such counties who are compensated on a fee basis as provided by law shall be entitled to retain annual fees not to exceed Four Thousand Dollars (\$4000) each. All Justices of the Peace and Constables of such counties who are compensated on a salary basis as provided by law shall receive an annual salary of not to exceed Four Thousand Dollars (\$4000) each, such salary to be fixed by the Commissioners Court. Provided, however, that all fees and Commissions whether current or delinquent which are collected by the incumbent during his tenure of office shall be applied first to the payment of his deputies, authorized expenses of his office and to make up the maximum compensation provided for in this subsection. No such officers shall be entitled to receive for any purpose any fees or commissions that are collected after he ceases to hold such office.

(e) Provided further that from and after January 1, 1946, the salaries of the hereinabove enumerated officers shall be as hereinafter set out.

(f) The Sheriff, District Attorney, District Clerk, County Clerk and the Assessor and Collector of Taxes of such counties shall each receive a salary of Seventy-four Hundred Dollars (\$7400) per annum. The County Treasurer of such counties shall receive per annum a salary of Thirty-nine Hundred Dollars (\$3900). The Judges of the County Courts at Law and the County Criminal Courts of such counties shall each receive a salary of Six Thousand Dollars (\$6000) per annum. The County Judge of such counties shall each receive a salary of Seventy-four Hundred Dollars (\$7400) per annum in lieu of all other compensation now provided by law. All of such salaries enumerated in this subsection shall be paid out of the General Fund of such counties.

(g) The County Commissioners of such counties shall each receive a salary of Fifty-five Hundred Dollars (\$5500) per annum and such salaries shall be out of the Road and Bridge Funds of such counties.

(h) All Justices of the Peace and Constables of such counties who are compensated on a fee basis as provided by law shall be entitled to retain annual fees not to exceed Forty-five Hundred Dollars (\$4500) each. All Justices of the Peace and Constables of such counties who are compensated on a salary basis as provided by law shall receive an annual

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

salary of not to exceed Forty-five Hundred Dollars (\$4500) each, such salary to be fixed by the Commissioners Court. Provided, however, that all fees and commissions whether current or delinquent which are collected by the incumbent during his tenure of office shall be applied first to the payment of his deputies, authorized expenses of his office and to make up the maximum compensation provided for in this subsection. No such officer shall be entitled to receive for any purpose any fees or commissions that are collected after he ceases to hold such office. As amended Acts 1945, 49th Leg., p. 106, ch. 74, § 1; Acts 1945, 49th Leg., p. 428, ch. 271, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Repeal of the provisions of this article insofar as in conflict with the provisions of article 3912—9, see section 8 of article 3912—9.

Art. 3912e—4. District, County and Precinct officers in counties of over 500,000, payment of assistants and expenses of conduct of offices

District and county officers in counties of over 500,000, see, also, article 3912e—4a.

Art. 3912e—4a. District and county officers in counties of over 500,000; compensation; assistants to county treasurer and district attorneys

Section 1. The provisions of this law shall apply to and control in each county in this state having a population of 500,000 or more, according to the last preceding or any future Federal Census.

County treasurer and assistants

Sec. 2. The County Treasurer in such counties shall have one assistant at a reasonable salary, to be determined by the Commissioners Court, not exceeding that allowed assistants or deputies of other officers, and the Commissioners Court of such counties may allow one additional assistant upon adequate written sworn proof of necessity therefor for a limited emergency period at a reasonable salary to be determined by the Commissioners Court. Said assistants shall be appointed in the same manner as the assistants of other officers and subject to the same legal requirements. They shall take the usual oath of office, and, in addition thereto, shall give such surety bond as may be required by the Commissioners Court of such counties, to run in favor of the County Treasurer or the county as their interests may appear. Said assistants shall have authority to do and perform in the name of the County Treasurer such acts of a clerical or ministerial character as may be required of them by such County Treasurer. The County Treasurer of each of such counties may designate, subject to the approval of the Commissioners Court, one of said assistants or any named person to act for him and in his stead when he shall be absent from the county, unavoidably detained, incapacitated, or be unable to act. The particulars justifying such appointment shall be placed before the Commissioners Court, which is authorized to make full inquiry into the necessity for such appointment. Upon approval by the Commissioners Court of such appointment, it shall be recorded in the minutes of the court, and thereupon such person may act for the County Treasurer during such periods of absence, detention, incapacity, or inability to act; provided, however, that such appointment shall not become effective until such named person shall have given such additional surety bond in favor of the county and the County Treasurer, as their interests appear, in such amount or amounts as the Commissioners Court may in its order require, and provided any person named

other than a regularly appointed assistant shall receive no salary from the county.

Commissioners Court, authority as to appointments, salaries etc.; applications for increases in salaries; hearing

Sec. 3. The provisions of this Act shall not apply where the laws in effect on January 1, 1945, in such counties place no limit upon the salaries authorized for deputies, assistants, employees or department heads; and it shall apply only to those salaries or compensations of deputies, assistants, employees or department heads on which the laws in effect January 1, 1945, placed a fixed limit.

The Commissioners Court of counties coming within the terms of this Act may continue to appoint or approve the appointment of deputies, assistants, employees or department heads and fix their salaries where such matters come within its jurisdiction, and may continue in the manner provided by law to approve the number and fix or approve the salaries of deputies, assistants, employees or department heads legally appointed by county or flood control district officials or department heads within the limitations of number and amount of salaries now or hereafter fixed by law.

In cases in which an officer of said county or any flood control district or conservation or reclamation district wholly within the boundaries of said county desires to increase the salary of any deputy, assistant, employee or department head beyond the limit now fixed by existing law, he shall file a sworn application addressed to the Commissioners Court with the County Clerk and County Auditor, giving full data and information to the extent and in the manner required by the regulations of the court previously adopted and entered in its minutes; and where such sworn applications have been filed, the court shall fix a date for the hearing and consideration thereof, and shall give public notice of the date of such hearing. All such applications shall be acted upon in open court at such public hearing, and any citizen or taxpayer may appear in favor of or in opposition to such application. Such hearing may be continued by the court from day to day. If, after such hearing, the court be of the opinion that such application should be granted in whole or in part, it shall have authority to grant, or authorize the grant of, an increase in salary of any deputy, assistant, employee or department head appointed by the court, or under its authority, or appointed by any other elected or appointed officials, or department heads, in such sum as the court may in its discretion determine without regard to existing limitations of amounts: provided, however, that the amount so allowed or the total amount so allowed when added to funds previously budgeted shall not create any deficit for the current year in any fund, or create an obligation against future revenues; provided further, such increases shall not become effective until approved by the County Auditor and he shall have affixed his certificate to the application that funds are, or will be, available for payment thereof when due.

Regulations, hours of work, vacations, sick leaves

Sec. 4. The Commissioners Court of such counties shall have the authority to adopt and enforce all reasonable regulations applying to all such deputies, assistants, employees or department heads governing the hours of work, vacations, and sick leaves, in the interest of obtaining uniform restrictions, conditions, and regulations governing all such deputies, assistants, employees or department heads in the manner now provided by law.

Budget adjustments or revisions; notice; hearing

Sec. 5. In all cases where the appointment of any deputy, assistant, or employee, or the fixing of any salary, or the approval thereof by the Commissioners Court and the County Auditor shall make necessary an adjustment in the previously adopted budget of such counties, such adjustment or revision may be made to the extent and in the manner made necessary by the appointment and increase or approval of any salaries of any such deputies, assistants, employees or department heads, or by any increase in salary of any officials herein authorized; provided, that in case of necessity to amend any previously adopted budget, it shall be done only upon submission to the Commissioners Court of a supplemental budget by the County Auditor as Budget Officer of the county which shall be advertised and set for hearing in the same manner as for adoption of the original county or flood control district budget for the year. Only one supplemental budget may be filed and adopted in each calendar year.

Assistants to district attorneys and criminal district attorneys; investigators; clerks and other employees; transfers of funds

Sec. 6. (a) The District Attorney or Criminal District Attorney, in the counties to which this bill applies are hereby authorized to appoint not exceeding twelve assistants and to fix their salaries at a rate not to exceed the following amounts: one First Assistant District Attorney or First Assistant Criminal District Attorney, not to exceed Six Thousand Dollars (\$6,000.00) per annum; two assistants, not to exceed Four Thousand Eight Hundred Dollars (\$4,800.00) per annum each; four assistants not to exceed Four Thousand Six Hundred Dollars (\$4,600.00) per annum each; five assistants not to exceed Three Thousand Six Hundred Dollars (\$3,600.00) per annum each. He may employ three investigators and fix their salaries at not to exceed Three Thousand Dollars (\$3,000.00) per annum each. He may employ three court reporters and fix their salaries at not to exceed Three Thousand Dollars (\$3,000.00) per annum each. He may employ one combination stenographer and accountant and fix his salary at not to exceed Two Thousand Four Hundred Dollars (\$2,400.00) per annum. He may employ one combination information clerk and switchboard operator, who shall also handle all telephone calls for the various courts in the Criminal Courts Building, and fix a salary of not exceeding One Thousand Five Hundred Dollars (\$1,500.00) per annum. He may employ one chief civil clerk and fix his salary at not to exceed Two Thousand Four Hundred Dollars (\$2,400.00) per annum. He may employ three abstractors and fix their salaries at not to exceed Two Thousand Four Hundred Dollars (\$2,400.00) per annum each. All such salaries above mentioned shall be payable from the Officers' Salary Fund, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the county to the Officers' Salary Fund. All salaries provided for in the above Section in excess of Three Thousand Six Hundred Dollars (\$3,600.00) per annum shall be subject to the approval of the Commissioners Court before becoming effective in the manner provided in Section 2 of this Act.

(b) Should such a District Attorney or Criminal District Attorney be of the opinion that the number of assistants, stenographers, investigators or other employees above provided for is not adequate for the proper investigation and prosecution of crime, and the efficient performance of the duties of his office, with the advice and approval of the Commissioners Court, he may appoint additional assistants and employees as hereinafter limited and fix their salaries as follows: one additional Assistant District Attorney or Assistant Criminal District Attorney at a salary not to exceed Four Thousand Five Hundred Dollars (\$4,500.00)

per annum; four additional assistants at salaries not to exceed Three Thousand Six Hundred Dollars (\$3,600.00) per annum each. He may employ two additional stenographers and fix their salaries at a rate not to exceed Two Thousand One Hundred Dollars (\$2,100.00) per annum each. He may employ one stenographer additionally, at a salary not to exceed One Thousand Eight Hundred Dollars (\$1,800.00) per annum. He may employ one civil clerk and fix his salary at a rate not to exceed One Thousand Eight Hundred Dollars (\$1,800.00) per annum. But such additional assistants or employees so appointed, before qualifying and entering upon the duties of such office and employment, shall be approved as to number and salaries by the Commissioners Court of such county, all such salaries to 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 such Officers' Salary Fund. In addition to the salary herein provided for investigators for District Attorneys or Criminal District Attorneys, each of such investigators may be allowed a sum not to exceed Fifty Dollars (\$50.00) per month for repair and maintenance expense of an automobile owned and maintained by said investigator and used by him in the investigation of crime, said allowance, or allowances, to be paid monthly by the county upon warrants drawn upon the Officers' Salary Fund, or General Fund, as the case may be, upon the written claim of such investigator showing that said automobile was in official use, and such claim shall bear the approval of the District Attorney and shall be paid as provided by law for other claims.

Provisions cumulative

Sec. 7. This Act shall be cumulative of all laws in force on its effective date, or subsequently enacted, with respect to reports, auditing, accounting, budgets, and approval and disapproval of claims for salaries, compensation, or other expenses, and all such laws shall remain in force, it being the intention of the Legislature that all statutes prescribing the form, time, method, and manner of reports and accounting for all public funds shall continue in full force and effect. Acts 1945, 49th Leg., p. 122, ch. 85.

Emergency. Effective April 19, 1945.

Section 8 of the Act of 1945 read as follows:

"If any sub-section, paragraph, clause or sentence in this Act is declared by any court to be unconstitutional, it shall not affect the remaining portions of this Act. The Legislature expressly declares the provisions of this Act to be severable, and if any portion shall be invalid, it shall not affect any other provisions herein."

Title of Act:

An Act fixing the compensation of certain designated district and county officers in counties having a population in excess of 500,000 inhabitants, according to the last preceding or any future Federal Census; providing the method, time, and manner in which said officers shall be compensated; providing for deputies, assistants, employees and department heads of such officers, fixing the method and

manner of their appointment or employment, fixing their compensation and the time, manner, and method of payment; providing for the appointment and compensation of deputies, assistants, employees and department heads of the District Attorney, or Criminal District Attorney in such counties; providing that this law shall be cumulative of other laws applying to such counties; providing that all laws in force on the effective date of this Act, or subsequently enacted with respect to the making of reports, accounts, preparation of budgets, auditing, approval, and disapproval of claims, and fixing the time, method, and manner of filing claims shall remain in effect and apply to all such officers, deputies, assistants, employees and department heads; declaring the provisions hereof to be severable; and declaring an emergency. Acts 1945, 49th Leg., p. 122, ch. 85.

Art. 3912e—8. Salaries of county attorneys in counties of over 190,000

The county attorney, in counties having a population of more than one hundred and ninety thousand (190,000) inhabitants, according to the

last preceding Federal Census, general or special, where there is no resident district attorney or criminal district attorney, shall receive the same salary as provided for district attorneys or criminal district attorneys in Section 1, House Bill No. 148, Chapter 68, Acts of the Forty-fifth Legislature, Regular Session, 1937,¹ and said salary shall be paid in equal monthly installments; such county attorneys shall be authorized to appoint assistants and employees in the same manner as is provided for district attorneys or criminal district attorneys under the provisions of Section 1, House Bill No. 184, Chapter 68, Acts of the Forty-fifth Legislature, Second Called Session;² such assistants and employees shall be compensated for their services in the same manner and amounts as is provided for the compensation of assistants and employees of district or criminal district attorneys under the provisions of said Section 1, House Bill No. 148, Chapter 68, Acts of the Forty-fifth Legislature, Second Called Session. Acts 1945, 49th Leg., p. 505, ch. 307, § 1.

¹ Article 3912e, § 19(d).

² Article 3912e, § 19(f).

Emergency. Effective May 30, 1945.

Title of Act:

An Act providing for compensation of county attorneys and their assistants and employees in counties having a population of more than one hundred and ninety thousand (190,000) inhabitants, according to the last preceding Federal Census, general or special, where there is no resident dis-

trict attorney or criminal district attorney; authorizing such county attorneys to appoint assistants and employees as provided for district attorneys and criminal district attorneys in Section 1, House Bill No. 148, Chapter 68, Acts of the Forty-fifth Legislature, Second Called Session; and declaring an emergency. Acts 1945, 49th Leg., p. 505, ch. 307.

Art. 3912e—9. Salaries of certain officers in counties of 300,000 to 500,000

Section 1. The provisions of this Act shall apply to and control in each of the counties in this state having a population of not less than 300,000, nor more than 500,000, according to the last preceding Federal Census.

Sec. 2. The County Judge, Sheriff, District Attorney, Criminal District Attorney, District Clerk, County Clerk, and the Assessor-Collector of Taxes of such counties shall each receive a salary of Seventy-seven Hundred (\$7700.00) Dollars per annum. The County Auditor of such counties shall receive a salary of Seventy-four Hundred (\$7400.00) Dollars per annum, in lieu of any and all compensation now provided by law; provided that any salary or compensation now provided by law to be paid such County Auditors out of any special funds, including compensation rendered navigation, levee, drainage, road or school districts, shall be charged and collected, but shall be paid into the general fund of such counties. The County Treasurer of such counties shall each receive a salary of Forty-two Hundred (\$4200.00) Dollars per annum. The Judges of the County Courts-at-Law and the County Criminal Courts of said counties shall each receive a salary of Sixty-three Hundred (\$6300.00) Dollars per annum. All such salaries shall be paid out of the officers' salary fund or the general fund of such counties, as the case may be.

Sec. 3. The County Treasurer, upon the approval of the Commissioners Court, shall be allowed to appoint one (1) assistant at a salary not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum, and a second assistant at a salary not to exceed Twenty-one Hundred (\$2100.00) Dollars per annum. Said assistants shall be appointed by the Treasurer and shall take the usual oath of office, and in addition thereto, shall give such surety bond as may be required by the County Treasurer or by the Commissioners Court. Said assistants shall have authority to do and

perform in the name of the Treasurer such acts of a clerical or ministerial character as may be required of them by the County Treasurer. All of said salaries enumerated in this section shall be paid from the general fund of such counties.

Sec. 4. The Commissioners Court of each of said counties shall grant an increase in the employees' salary budget and amend said budget for the necessary amount for all of said county offices named in Sections 1 and 2 above, equal to a fifteen (15%) per cent increase in the salary of all the employees, deputies and assistants for all of said offices, based on the pay roll of the particular office as of March, 1945. The salaries of the officials named in this Act shall not be increased beyond the salaries fixed in this Act. Said increase in salaries shall be paid from the general fund or officers salary fund, or road and bridge fund of such counties.

Sec. 5. The County Commissioners of such counties shall each receive a salary of Fifty-five Hundred (\$5500.00) Dollars per annum and such salaries shall be paid out of the Road and Bridge Funds or the General Fund of such counties, as the case may now be.

Sec. 6. All Justices of the Peace and Constables of such counties who are compensated on a fee basis as provided by law shall be entitled to retain annual fees and/or salary of Forty-seven Hundred Fifty (\$4750.00) Dollars each; provided, however, that all fees and commissions, whether current or delinquent, which are collected by the incumbent during his tenure of office shall be applied first to the payment of his deputies, authorized expenses of his office, and to make up the maximum compensation provided for in this section. No such officers shall be entitled to receive for any purpose any fees or commissions that are collected after he ceases to hold such office.

Sec. 7. This Act shall not repeal any of the provisions of Chapters 169 and 585, 47th Legislature, Regular Session, page 240, 1309 (1941) now appearing as Article 3912—e, Section 19(f-1) and (h-2), Vernon's Annotated Civil Statutes. The fifteen (15%) per cent increase in salary herein provided for shall be in addition to the salaries of employees, deputies and assistants provided for in said Acts.

Sec. 8. That Section 1 of Chapter 81, Acts 45th Legislature, Regular Session, page 151 (1937), now appearing as Article 3912e—1, Vernon's Annotated Civil Statutes, and all other laws in conflict herewith be, and the same are hereby repealed, insofar as the same are in conflict with the provisions of this Act, but not otherwise.

Sec. 9. The salary of the County Engineer of such county shall not exceed Fifty-two Hundred Fifty (\$5250.00) Dollars per annum, said salary to be fixed by the Commissioners Court and paid out of the road and bridge fund of such counties.

Sec. 10. The salary of the County School Superintendent of such counties shall be Five Thousand Fifty (\$5050.00) Dollars per annum, said salary to be paid out of the school equalization fund.

Sec. 11. It is further provided that the minimum wage to be paid any road and bridge employee of such counties shall be not less than Fifty (50¢) cents per hour.

Sec. 12. If any section, paragraph, clause or sentence in this Act is declared to be unconstitutional, the same shall not effect the remaining portions of this Act. It is further the intention of the Legislature, in the event this Act shall be declared unconstitutional, that the salaries and compensations of the employees, deputies and assistants of the public officers named in this Act and the maximum amount of salaries and compensations which may be paid to said employees, deputies and assistants,

shall remain the same as may now be fixed by existing law. Acts 1945, 49th Leg., p. 510, ch. 312.

Emergency. Effective June 2, 1945.

Title of Act:

An Act fixing the compensation of certain county officials in counties with a population of not less than 300,000, nor more than 500,000, according to the last preceding Federal Census; providing for a fifteen (15%) per cent increase in salaries of the employees, deputies, and assistants of said county officials, based on March, 1945 pay roll; providing for two assistants to the County Treasurer at stated salaries;

and to be appointed by him; providing that salaries of employees, deputies and assistants of the named officials may not be decreased; providing the method and means by which said officers and employees shall be compensated; repealing Section 1 of Chapter 81, Acts of the 45th Legislature, Regular Session, page 151 (1937) and all other laws in conflict herewith; and declaring an emergency. Acts 1945, 49th Leg., p. 510, ch. 312.

CHAPTER TWO—ENUMERATION

Art. 3918. 3842, 2441, 2376 Land Commissioner

The Land Commissioner is authorized and required to charge for the use of the state, the following fees:

FILING FEES

Deed transferring one tract of land or a decree of court relating to one tract of land	\$1.00
Each additional tract in a deed or decree	.50
Affidavit of ownership	.50
Original Field Notes	1.00
Transfer or relinquishment of each Mineral Award, Mineral Prospect Permit, Grazing Lease, or Mineral Lease or part thereof, except those transfers subject to 10¢ per acre transfer fees, and those Relinquishments subject to \$1.00 per area relinquishment fees	1.00
Transfer or relinquishment of Mineral Leases or parts thereof, which transfers are subject to 10¢ per acre transfer fees, and which Relinquishments are subject to \$1.00 per area relinquishment fees	1.00
Certificates of Facts covering one tract of land	2.00
Each additional tract	1.00
Each other certificate not otherwise provided for	.50

CERTIFIED COPIES

Certificate of the class of Toby Scrip	\$2.50
All other Land Certificates	1.00
Applications for survey	1.00
Field Notes	1.00
Mineral Application	1.00
Mineral Permit or Mineral Lease	2.00
Purchase Application and Obligation	1.25
Purchase Application	1.00
Obligation for Deferred Payment on Land	1.00
File Wrapper	1.00
Proof of Occupancy	1.50
Deed, Bond for Title, Power of Attorney, Decree of Court or other similar instrument	1.50
Patent	1.25
Affidavit of Settlement, Non-settlement and Rebuttal Affidavits, each	1.00

Other Affidavits	1.00
Lease Application or Contract not exceeding five tracts	1.00
Each additional tract add	.25
Letters and Impressions of Letters	1.00
Extract of Muster Roll, Traveling Land Board Reports, Clerk's Returns relating to Land Certificates, Patent Delivery Books, School Land Sales, records and books and other similar records, each	2.00
Copy of any record, document or papers in the English language not otherwise provided for herein, 20¢ for each 100 words, provided that no charge shall be less than	1.00
Plain or certified copy of any other paper, document or record in any other language than the English, 40¢ for each 100 words, provided no charge shall be less than	1.00
Blue Print, White Print, or other Cloth Map of any county	4.00
Blue or White Print Paper Map of any county	2.00
Certificate on either Cloth or Paper Map of any county	.50
Plain or certified copy of a portion of a map or sketch or plat made by print or hand, and for a working sketch, the fee shall be determined by the amount of material used and the time consumed, at the rate of, per hour	1.00
For examination of any filed papers, for each survey	.50
When an examination of the records of the General Land Office, other than maps or filed papers, is desired by one person or where search is necessary to compile information, minimum fee to be charged of 50¢, and if the examination is extended beyond thirty (30) minutes, an additional sum shall be charged at the rate of, per hour	1.00

PATENT FEES

Eighty Acres or less	\$5.00
Each additional eighty acres or fractional part thereof contained in a patent	1.00

DEED OF ACQUITTANCE FEES

Eighty acres of excess or less	5.00
Each additional eighty acres of excess or fractional part thereof contained in a Deed of Acquittance.	
As amended Acts 1945, 49th Leg., p. 18, c. 13, § 1.	1.00

Emergency. Effective 60 days after its passage.

Art. 3926. 3850 to 3853 Other fees of county judge

2. For each case of lunacy disposed of by him, Five Dollars (\$5), to be paid out of the county treasury. For each civil cause finally disposed of by him by trial or otherwise, Five Dollars (\$5), to be taxed against the party cast in the suit; provided, that if said party has filed his oath of inability to pay costs during the progress of the cause, or be unable to pay costs, then the county judge shall be allowed by the Commissioners Court such compensation as it may deem proper, not to exceed Three Dollars (\$3) for each State case. As amended Acts 1945, 49th Leg., p. 662, ch. 368, § 2.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 3927. 3855, 2453, 2389 District clerk

The clerks of the District Courts shall receive the following fees in civil cases for their services:

Certificate and seal on any copy	\$.50
Each writ of citation	.75
Each copy of citation	.75
Docketing each cause, to be charged but once	.50
Every other order, judgment, or decree, not otherwise provided for	1.00
Docketing each rule or motion, including rule for cost	.15
Filing each paper	.15
Filing original petition	1.50
Entering appearance of each party to a suit, to be charged but once	.15
Each continuance	.15
Swearing each witness	.10
Administering an oath, affirmation, or taking affidavit, certificate and seal; provided, that he shall only be allowed pay for one certificate to each witness claim for attendance in behalf of plaintiff, and one each in behalf of defendant, at any one term of Court	.50
Each subpoena issued	.25
Each additional name inserted in subpoena	.15
Approving bond (except for costs)	1.50
Swearing and impaneling a jury	.35
Receiving and recording a verdict of a jury	.35
Each commission to take depositions	.75
Taking depositions, each 100 words	.15
Issuing copies of interrogatories with certificate and seal per 100 words	.15
Each final judgment	1.50
Where judgment exceeds 300 words, an additional fee for each 100 words in excess of 300 words	.15
For each order of sale	1.00
For each execution	1.00
For each writ of possession or restitution	1.00
For each injunction writ	.75
For each copy of injunction writ	.75
For every other writ not otherwise provided for	.75
For each copy of writ not otherwise provided for	.75
Recording return of any writ, including the return on all writs, except subpoenas	.50
Each certificate to any facts contained in his office	1.00
Making out and transmitting the records and proceedings in a cause to any inferior Court, for each 100 words	.10
Making out and transmitting mandate or judgment of the District Court upon appeal from the County Court	1.00
Filing a record in a cause appealed to the District Court	.50
Transcribing, comparing and varifying record books of his office, payable out of the county treasury, upon warrants issued upon the order of Commissioners Court, for each 100 words	.15
Making transcript of records and papers in any cause upon appeal, or writ of error, with certificate and seal, for each 100 words	.15
Making copy of all records, judgments, orders, petitions, pleadings, or papers on file in his office, whether to be certified or not, for any party applying for same, for each 100 words	.15
Taxing the bill of costs in any case with copy of same	.25
Filing and recording the declaration of intention to be a citizen of the United States	2.00

Issuing certificate of naturalization	2.50
As amended Acts 1945, 49th Leg., p. 662, ch. 368, § 3.	
Effective 90 days after June 5, 1945, date of adjournment.	

Art. 3930. 3860, 2457, 2393 County clerk

Clerks of the county Court shall receive, the following fees:	
Filing each paper	.10
Issuing notices, including copies for posting or publication	.75
Docketing each application, complaint, petition, or proceeding, to be charged but once	.20
Each writ or citation, including copy thereof	.75
Each copy of any paper that is required to accompany any writ or citation with certificate and seal, for each 100 words	.15
Issuing letters testamentary, of administration or guardianship	.75
Each final judgment or decree	1.00
Every other order or decree, not exceeding 100 words	.15
Where such other order or decree contains 100 words and not more than 200 words	.25
When any final judgment or decree or any other order or decree exceeds 200 words, an additional fee for each 100 words in excess of 200 words	.15
Recording all papers required to be recorded by them in relation to estates of decedents or wards, for each 100 words	.15
Administering oath to executor, administrator, or guardian	.10
Administering oath in other cases without certificate and seal	.15
Administering oath with certificate and seal	.50
Entering each order of the Court approving or disapproving a claim against an estate	.25
Filing each paper, except subpoenas	.10
Each appearance, to be charged but once	.10
Entering each continuance, except in estates	.10
Each subpoena	.25
Each additional name inserted in a subpoena	.15
Approving bond, except bond for costs and notarial bond	1.00
Approving notarial bond	.50
Swearing each witness	.10
Swearing and empaneling a jury	.25
Receiving and recording a verdict	.25
Each commission to take depositions	.50
Taking depositions, each 100 words	.15
Each execution, order of sale, writ of possession, restitution or other writ not otherwise provided for	.75
For recording return of any writ, when any such return is required by law to be recorded	.50
Where the return exceeds 300 words, for each 100 words in excess of 300 words	.15
Copies of interrogatories, cross-interrogatories and all other papers or records required to be copied by him, including certificate and seal, where the copy does not exceed 200 words, for each 100 words	.15
Where the copy exceeds 200 words, for each additional 100 words in excess of 200 words	.15
Transcript in any case where appeal or writ of error is taken, with certificate and seal, for each 100 words	.15

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

Each certificate to any fact or facts contained in the records of his office, with certificate and seal, when not otherwise provided for	.50
For filing, recording and certifying to each tax receipt	.25
Taxing the bill of costs in each cause, with a copy thereof	.25
For recording attachments and returns, the same fees allowed for recording deeds.	
For filing and recording each rental lien deposited	.40
For filing and registering and entering satisfaction and release of each chattel mortgage	.75
Recording all papers required or permitted by law to be recorded, not otherwise provided for, including certificate and seal, for each 100 words	.15
Transcribing records for new counties and added territory, for each 100 words	.15
Transcribing, comparing, and verifying record books of his office, payable out of the county treasury upon warrant issued under the order of the Commissioners Court, for each 100 words	.15
Issuing and recording marriage license	2.00
Recording each mark and brand or either	.50
Issuing each license, other than marriage license, where the law provides for him to issue same	1.00
Recording and certifying bills of sale under the stock laws, for each 100 words	.15
Recording each mark and brand and giving certificate thereof	.75
Revising the list of marks and brands, such compensation as the Commissioners Court may allow.	
Qualifying a notary public	.50
For filing and recording the bond and sworn statement of a live-stock commission merchant	1.00
For making a certified copy of such bond and statement	1.00
As amended Acts 1945, 49th Leg., p. 662, ch. 368, § 5.	

Effective 90 days after June 5, 1945, date of adjournment.

Art. 3933. Sheriffs and constables

Sheriffs and Constables shall receive the following fees:	
Serving each original citation in a civil suit	\$ 1.25
Summoning each witness	.75
Levying and returning each writ of attachment or sequestration	2.00
Copy of attachment writ and return for recording	1.00
Levying each execution	1.00
Return of execution	1.00
Serving each writ of garnishment or other process not otherwise provided for	1.00
Serving each writ of injunction	1.50
Taking and approving each bond, and returning same to the proper Court when necessary	1.00
Endorsing the forfeiture of any bond required to be endorsed by him	.50
Executing and returning each writ of possession or restitution	3.00
Posting the advertisements for sale under the execution or any order of sale	1.00
Posting any other notices required by law and not otherwise provided for	1.00

Executing a deed to each purchaser of real estate under execution or order of sale	2.00
Executing a bill of sale to each purchaser of personal property under an execution or order of sale, when demanded by purchaser	2.00
For each case tried in the district or county Court, a jury fee shall be taxed for the sheriff of	.50
For services in designating a homestead	2.00
For traveling in the service of any civil process, sheriffs and constables shall receive Ten (10) Cents for each mile going and coming; if two (2) or more persons are mentioned in the writ, he shall charge for the distance actually and necessarily traveled in the service of same.	

Collecting money on an execution of an order of sale, when the same is made by a sale, for the first One Hundred Dollars (\$100) or less, four per cent (4%); for the second One Hundred Dollars (\$100), three per cent (3%); for all sums over Two Hundred Dollars (\$200) and not exceeding One Thousand Dollars (\$1,000), two per cent (2%); for all sums over One Thousand Dollars (\$1,000) and not exceeding Five Thousand Dollars (\$5,000), one per cent (1%); for all sums over Five Thousand Dollars (\$5,000), one-half ($\frac{1}{2}$) of one per cent (1%).

When the money is collected by the sheriff or constable without a sale, one-half ($\frac{1}{2}$) of the above rates shall be allowed him.

For every day the sheriff or his deputy shall attend the district or county Court he shall receive Four Dollars (\$4) a day to be paid by the county for each day that the sheriff by himself or a deputy, shall attend said Court. As amended Acts 1945, 49th Leg., p. 662, ch. 368, § 5.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 3934. 3865—6 Sheriff; other compensation

2. Repealed. Acts 1945, 49th Leg., p. 244, ch. 179, § 4.

Emergency. Effective May 9, 1945.

Art. 3935. 3867, 2463, 2399 Justice of the peace

Justices of the peace shall receive the following fees:

Each citation	\$ 1.00
Each subpoena for one witness	.25
Each additional name inserted in a subpoena	.10
Docketing each cause	.20
Filing each paper	.10
Each continuance	.10
Each bond not otherwise provided for	.50
Swearing each witness in Court	.10
Administering an oath without a certificate	.10
Administering an oath with certificate	.50
Administering the oath, approving bond and issuing a writ of attachment or sequestration	1.50
Issuing any other writ or process not otherwise provided for	1.00
Causing a jury to be summoned and swearing them	.25
Receiving and recording verdict of jury	.25
Each order in a cause not otherwise provided for	.50
Each final judgment	1.00
Each abstract of judgment	.75
Each application to set aside a judgment or for a new trial, with the final judgment thereon	.50
Each appeal bond	1.00

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

Each commission to take depositions	.50
Copy of interrogatories or cross-interrogatories, for each 100 words including certificate	.15
Making and certifying a transcript of the entries on his docket, and filing the same, together with the original papers in the case, in the proper Court, in each case of appeal or certiorari	1.50
Each execution or order of sale	1.00
Each writ of possession or restitution	1.00
Receiving and recording the return on each execution, order of sale, writ of possession or restitution, if a levy is returned or the writ executed	.50
If no levy is returned or the writ not executed	.25
Making copies of any papers or records in his office for any person applying for the same, for each 100 words including certificate	.15
Taxing costs, including copy thereof, in each case	.25
Each certificate not otherwise provided for	.50
Taking acknowledgment for stay of judgment	.50
As amended Acts 1945, 49th Leg., p. 666, ch. 368, § 6.	

Effective 90 days after June 5, 1945, date of adjournment.

TITLE 68A—GOOD NEIGHBOR COMMISSION OF TEXAS [NEW]

Art.

4101—1. Good Neighbor Commission; creation; powers and duties; compensation; expenses.

Art. 4101—1. Good Neighbor Commission; creation; powers and duties; compensation; expenses

Section 1. There is hereby created the Good Neighbor Commission of Texas, which shall be composed of nine (9) members, each of whom shall be a resident citizen of the United States and of the State of Texas, appointed by the Governor with the advice and consent of the Senate. All such members shall be appointed for a term of two (2) years from the effective date of this Act; at the end of which period such terms shall expire and this Act shall cease to exist unless otherwise provided by law.

Vacancies; quorum

Sec. 2. Vacancies occurring in the membership of the Commission shall be filled as in the first instance, for the unexpired term. Five (5) members of the Commission shall constitute a quorum for the transaction of business.

Duties

Sec. 3. It shall be the duty of the Commission to devise and put into effect methods by which inter-American understanding and good will may be promoted and inter-American relations advanced, without resort to punitive measures or the application of civil or criminal sanctions.

Powers

Sec. 4. The Commission shall have power:

a. To elect from its members a chairman and other such officers as it may deem desirable; provided that the first chairman of the Commission shall be named by the Governor and shall call the first meeting of the Commission and serve as such until his successor shall be elected by the Commission. All officers of the Commission shall serve as such only during the pleasure of the Commission.

b. To hold meetings, at such places within the State of Texas and at such times, as the Commission may designate.

c. To appoint committees from its membership and prescribe their duties.

d. To appoint consultants to the Commission.

e. To make rules and regulations for its government and that of its officers and committees; and to prescribe the duties of its officers, consultants and employees.

f. To employ a secretary and other such clerical employees as it may think necessary, and to fix the pay and compensation of such employees within the limits of funds made available to it for such purpose by appropriation from time to time.

g. To receive and extend in payment of salaries and necessary expenses any funds donated to it. Such funds, when received by the Commission, shall be deposited with the State Treasurer, and shall be placed to the credit of a special account to be known as "Good Neighbor Commission of Texas Fund." Expenditures from such fund shall be only to defray the salaries or other necessary expenses of the Commission,

and any moneys left on hand in such fund at the expiration of this Act shall lapse into the General Fund.

Offices; reports

Sec. 5. The Commission shall maintain its offices in the City of Austin, and shall hold at least one meeting each year in the City of Austin. On or before the 1st day of December of each year, the Commission shall make, in writing, a complete and detailed report to the Governor and to the presiding officer of each House of the Legislature of its activities.

Compensation; expenses

Sec. 6. No member or officer of or consultant to the Commission shall receive any compensation for his services as such member or officer or consultant, but shall be paid his actual traveling and other necessary expenses incurred in attending the meetings of the Commission and in the discharge of his duties as such member, officer or consultant, upon verified and itemized accounts approved by the Chairman of the Commission. The necessary clerical and other expenses of the Commission shall be paid in like manner.

Assistance by officers, etc.; payment of expenses

Sec. 7. All officers, departments and agencies of the State Government shall, when requested by the Commission, render to it such assistance as it may require in the discharge of its duties. All expenses incident to the rendering of such assistance, other than the salaries of the officers or employees of such departments and agencies, shall be from the funds made available to the Commission by appropriation. Acts 1945, 49th Leg., p. 133, ch. 91.

Effective 90 days after June 5, 1945, date of adjournment.

Section 8 of the Act of 1945, made appropriations to defray the expenses of the Commission for the remainder of the current fiscal year and for the years ending August 31, 1946 and August 31, 1947.

Title of Act:

An Act creating the Good Neighbor Commission of Texas; prescribing its powers and duties; appropriating funds for its expenses; and declaring an emergency. Acts 1945, 49th Leg., p. 133, ch. 91.

TITLE 69—GUARDIAN AND WARD**CHAPTER FOUR—OATH AND BOND OF GUARDIAN****Art. 4141. 4099, 2600, 2519 Guardian of estate, bond**

The bond of the guardian of the estate of a ward shall be in an amount equal to the estimated value of the personal property belonging to such estate, plus a reasonable amount to be fixed by the county judge, to cover rents, revenues and income derived from the renting or use of real estate belonging to such estate, together with any additional sum that may be found necessary by the county judge to protect such estate, provided such bond is made by either domestic or foreign corporations permitted to do business in this State for the purpose of issuing surety, guaranty, or indemnity bonds guaranteeing fidelity of executors, administrators, and guardians. However, if personal bonds are filed, the bond shall be in double the value of the above described property, provided, however, that in instances where the ward will receive moneys in installments from any source or periodical payments of any character, the county judge shall only require the guardian to give bond in double the amount of the installments estimated to actually come into the ward's estate during any year, and thereafter bond shall be fixed and given in accordance with the provisions of this Article and all general laws. Such bond shall be payable to and approved by the county judge of the county where such guardianship is pending, and conditioned that such guardian will faithfully discharge the duties of guardian of the estate of such ward according to law. It shall be the duty of such county judge to use reasonable diligence in the supervision of the estate of the ward, and shall annually examine into the condition of the estate of the ward, and the solvency of such guardian's bond, and to require such guardian at any time it may appear that such bond is not ample security to protect such estate and the interests of his ward, to execute a new bond in accordance with law. In such case, he shall notify the guardian as in other cases; and should damage or loss result to such ward through the failure of such county judge to use reasonable diligence in the performance of such duties, such county judge shall be liable on his official bond to such ward. As amended Acts 1945, 49th Leg., p. 525, ch. 316, § 3.

Effective 90 days after June 5, 1945, date of adjournment.

CHAPTER SEVEN—FISCAL MANAGEMENT

Art.

4192a. Pooling or unitization agreements covering interest in gas rights in lands subject to leases [New].

Art. 4192. Mineral lease

Pooling or unitization agreements, see art. 4192a.

Art. 4192a. Pooling or unitization agreements covering interest in gas rights in lands subject to leases

Section 1. That guardians of estates of minors and other persons, appointed under the laws of this state, may make or enter into pooling

or unitization agreements covering the interest of their wards in the gas and gas rights, including all liquid hydrocarbons in the gaseous phase in the reservoir, in any lands which are subject to gas leases or oil, gas and mineral leases heretofore or hereafter made and entered into, so as to pool or unitize such gas and gas rights with similar rights in other lands under the following rules:

Application; hearing; order

Sec. 2. The guardian shall file his sworn application with the County Clerk of the county where such guardianship is pending for authority to make or enter into such pooling or unitization agreement, and the County Judge, either in term time or vacation, shall hear such application and shall require proof as to the necessity or advisability of such pooling or unitization, and, if he shall approve the same, he shall enter an order authorizing the guardian to make or enter into such pooling or unitization agreement, and said order shall contain a copy of said pooling or unitization agreement authorized to be made or entered into which shall contain and include a description of the lands in the pool or unit.

Notice

Sec. 3. Previous notice thereof shall be given by the guardian for one week prior to the time the County Judge shall hear such application by publishing same in some newspaper of general circulation in the county where such guardianship is pending for one issue of said paper. Said notice shall say when and where such application shall be heard. If no paper shall be published in the county where such notice is required to be given, then said notice may be given by posting such notice at the courthouse door of such county for seven days next preceding the date of such hearing, and said publishing or posting as herein provided may be shown by the return of the Sheriff or Constable or by the affidavit of any credible person made on a written copy of the notice so published or posted showing the fact of such publishing or posting.

Giving of notice; calling to judge's attention; designation of date of hearing; continuance

Sec. 4. No notice thereof shall be given by the County Clerk, but such notice must be given by the guardian as herein provided, and when such an application is filed the clerk shall immediately call the attention of the judge of the court in which such guardianship is pending, to the filing of such application and the judge shall designate a date to hear such application, and such date shall not be within seven days after the filing of said application, and such hearing may be continued from time to time until the judge is satisfied concerning the application.

Making of agreement; bond of guardian

Sec. 5. After the hearing of said application and the granting of the same by the court, said guardian shall be fully authorized to make or enter into such pooling or unitization agreement upon the real estate of the ward, in accordance with the judgment of the court thereon. In the event the court considers the making or entering into of said pooling or unitization agreement of sufficient benefit to the estate of the ward, he may not require the payment of any cash consideration or bonus therefor, and shall so state in his order authorizing the execution of such pooling or unitization agreement. In such event, when such order has been made, the guardian shall be fully authorized to make and enter into, and execute and deliver, such pooling or unitization agreement, and it shall not be necessary for the court to make any order confirming said

pooling or unitization agreement. In the event the order of the court requires a cash bonus to be paid, such pooling or unitization agreement shall not be valid until such guardian files a good and sufficient bond in double the amount of the cash bonus that may be paid for the execution of said pooling or unitization agreement, which bond shall be approved by the County Judge, filed with the County Clerk, and recorded in the minutes of such court. When such order has been made and such bond has been executed and approved, the guardian shall be fully authorized to make and enter into, and execute and deliver, such pooling or unitization agreement, and it shall not be necessary for the court to make any order confirming said pooling or unitization agreement.

Duration of lease

Sec. 6. No such pooling or unitization agreement shall have the effect of extending any lease heretofore or hereafter executed on the real estate belonging to the estate of the ward beyond the time that the ward shall become twenty-one (21) years of age, unless at that time the lessee or operator of the unit or pool in which the ward's real estate is included under the terms of such pooling or unitization agreement, shall have discovered gas upon the premises described in the pooling or unitization agreement and covered thereby, in which event said lease shall remain in full force so long as gas shall be produced in paying quantities from said pooled unit. Acts 1945, 49th Leg., p. 117, ch. 80.

Emergency. Effective April 17, 1945.

Title of Act:

An Act to authorize guardians of the estates of minors and other persons, appointed under the laws of this state, to enter into pooling or unitization agreements covering the interest of their wards in the gas and gas rights in any lands which are

subject to gas leases or oil, gas and mineral leases heretofore or hereafter made and entered into, so as to pool or unitize such gas and gas rights with similar rights under other lands and prescribing the manner in which said pooling or unitization agreements shall be made; and declaring an emergency. Acts 1945, 49th Leg., p. 117, ch. 80.

CHAPTER EIGHT—SALES

Art. 4201. 4162, 2660, 2579 Order of sale; amount of bond

An order for the sale of real estate shall state: (1) The property to be sold, giving such description of it as will identify it. (2) Whether it is to be sold at public auction or at private sale, and if at public auction, the time and place of such sale. (3) The necessity and purpose of such sale. (4) That no sale made by the guardian pursuant thereto shall be confirmed nor shall the title of the ward to such real estate pass to the purchaser unless and until it shall first be found and determined by the court, by an order duly made and entered to that effect, that the guardian's general bond, if the sureties thereon are natural persons, is in an amount equal to double the value of the personal property then on hand, including the amount for which said real estate may be sold, plus such additional sum as may, in the opinion of the court, be necessary to protect the estate of the ward, and that the sureties on such bond are solvent; but if the surety or sureties on said bond are either a domestic or foreign corporation or corporations permitted to do business in the State for the purpose of issuing surety, guaranty, or indemnity bonds, guaranteeing the fidelity of guardians, the bond shall be in an amount equal to the value of the personal property on hand, including the amount for which said real estate may be sold, plus such additional sum as may, in the opinion of the court, be necessary to protect the estate of the ward; provided in the event the guardian's general bond is not sufficient to protect the estate of the ward as above required, an additional bond

shall be filed in accordance with the above requirements. However, where the sale of such real estate is made to the owner or holder of a secured claim against the estate and the same is of the real estate securing such claim and is in full payment, liquidation, and satisfaction thereof, only the amount of cash, if any, actually received by such guardian in excess of the amount necessary to pay, liquidate and satisfy such claim in full, shall be considered together with other property of the estate in passing upon the sufficiency of the bond as hereinabove required. (5) It shall require the sale to be made and the report to be returned to the court in accordance with the law. As amended Acts 1945, 49th Leg., p. 525, ch. 316, § 4.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 4201a. Repealed. Acts 1941, 47th Leg., p. 658, ch. 399, § 1.

Order of sale and bond, see article 4201.

Art. 4216. 4177, 2675, 2593 Action of the court—Bond of guardian—Requisites and amount—Provisions mandatory

At any time after the expiration of five days after the filing of a report of sale, the Court shall inquire into the manner in which such sale was made, and hear evidence in support of or against such report, and if satisfied that such sale was fairly made and in conformity with the law and that the guardian has on file a good and sufficient general bond in an amount, if the sureties thereon are natural persons, equal to double the value of the personal property then on hand, including the amount for which said real estate is being sold, plus such additional sum as may, in the opinion of the court, be necessary to protect the estate of the ward; but if the surety or sureties on said bond are either a domestic or foreign corporation or corporations permitted to do business in the State for the purpose of issuing surety, guaranty or indemnity bonds guaranteeing the fidelity of guardians the bond shall be in an amount equal to the value of the personal property on hand including the amount for which said real estate may be sold plus such additional sum as in the opinion of the court may be necessary to protect the estate of the ward; and if and when the guardian's general bond has been examined by the court and found to be in the amount above required with good and sufficient sureties thereon, or if the guardian's general bond is found to be insufficient, then an additional bond shall be filed in accordance with the above requirements; as evidenced by an order duly made and entered by the court to that effect, the court shall cause to be entered a decree confirming such sale, and order the report of sale to be recorded by the clerk, and the proper conveyance of the property sold to be made by the guardian to the purchaser, upon compliance by such purchaser with the terms of sale. The provisions of this Article shall be mandatory, and unless the court shall first determine that the guardian's bond is adequate and solvent as above set forth, as evidenced by an order made and entered by the court to that effect, any sale of real estate hereafter made under the provisions of this Title shall be void. As amended Acts 1945, 49th Leg., p. 525, ch. 316, § 5.

Effective 90 days after June 5, 1945, date of adjournment.

TITLE 70—HEADS OF DEPARTMENTS

CHAPTER TWO—COMPTROLLER OF PUBLIC ACCOUNTS

Art.
4344a. Transfer of balance in dormant fund
to General Revenue Fund [New].

Art.
4366a. Money received under federal flood
control law; disposition [New].

Art. 4344. Certain duties

Acceptance of payments by federal agen-
cies in lieu of taxes, see art. 5248f.

Art. 4344a. Transfer of balance in dormant fund to General Revenue Fund

The Comptroller, with the consent and approval of the State Auditor and Efficiency Expert, and the State Treasurer, may, at any time, transfer any balance in any dormant fund, the source of which is unknown or the purpose for which it was collected has become moot, into the General Revenue Fund. Any transfer so made may be subject to appropriation as a refund by the Legislature, should the source and purpose of such fund become known and active at any time in the future. Acts 1945, 49th Leg., p. 199, ch. 152, § 2.

Emergency: Effective May 4, 1945.

Section 1 of the Act of 1945 directed and authorized the Comptroller to transfer certain described funds into the General Revenue Fund, with a provision as follows: "It is the intent of the Legislature that should the source of any of these balances of funds be determined and it becomes necessary to return any of this money to the proper owners thereof, then such funds in the General Revenue Fund shall be subject to appropriation."

Title of Act:

An Act directing and authorizing the Comptroller to transfer Eight Hundred Thirty-eight Dollars and Forty-one Cents (\$838.41) from the Suspense Fund to the

General Revenue Fund; Ninety-one Dol-
lars and Fifty-eight Cents (\$91.58) from
the National Guard Fund to the General
Revenue Fund; and Seven Hundred Twen-
ty-two Dollars and Three Cents (\$722.03)
from the Unorganized Counties Tax Fund
to the General Revenue Fund; and pro-
viding that the Comptroller, with the con-
sent and approval of the State Auditor
and Efficiency Expert and the State Treas-
urer, may transfer dormant funds to the
General Revenue Fund under certain cir-
cumstances; and that when such transfers
are made to the General Fund, the same
may be subject to appropriation by the
Legislature for a refund; and declaring an
emergency. Acts 1945, 49th Leg., p. 199,
ch. 152.

Art. 4359. 4350 Pay warrants register

The Comptroller shall provide a pay warrant register for each class of pay warrants, each volume of which shall be appropriately designated by class, number or otherwise. When a pay warrant is prepared, it shall be registered in the pay warrant register for the class to which it belongs; and such registry shall consist of an entry of the amount of the warrant, name of the payee, appropriation to which charged, and such other information as may be deemed advisable by the Comptroller. If a warrant is erroneously prepared, lost or destroyed, such fact shall be noted in the register opposite the number of such warrant in the register. One person shall be designated by the Comptroller as Chief of the Claims Division, and such person shall prepare or be responsible for the preparation of all pay warrants, and shall be accountable to the Comptroller for warrants coming into his possession. No warrant shall be prepared except on presentation to the warrant clerk of a properly audited claim, verified by affidavit to its correctness, the proper auditing of which claim shall be evidenced by the initials written thereon by the

person auditing the same; and such claim so verified and audited shall be sufficient and the only authority for the preparation of a warrant or warrants. When a warrant has been properly prepared, such warrant shall be registered as herein provided and shall be checked against the claim, and the warrant number shall be entered on the claim papers. The initials of the person checking the warrant with the claim shall be shown on both the warrant and the claim papers. When a warrant is properly prepared, it shall be, with the claim upon which it is based, passed to the Comptroller for his signature or the signature of such person as may be authorized by law to sign the same in his stead. Such warrant shall then be passed to the Treasurer's Department, together with a copy of the warrant register, and registered in the Treasurer's Department and signed by the State Treasurer or some person authorized by law to sign for him, and returned to the Comptroller's Department. Such warrant shall then be delivered by the Comptroller to the person entitled to receive it; and he shall at his option take a receipt from such person therefor and file it in his office. The printed forms for these warrants shall be so prepared and arranged that the original and duplicate shall, by the use of carbon sheets, be prepared at one writing. The Comptroller shall also keep a "warrants cancelled register", in which shall be entered the details of all warrants cancelled. Provided, however, a department, court, school, or other state agency, may prepare and present pay roll claims to the Comptroller prior to the end of the pay roll period, which said pay roll claims shall be verified by affidavit as to services theretofore actually performed within such pay roll period prior to the date of such pay roll claims; and such pay roll claims need not be verified by affidavit as to any services to be performed during such pay roll period subsequent to the date of such pay roll claims. Such claims when so presented shall be prepared and approved as otherwise provided below. The Comptroller shall accept such pay roll claim when presented and prepare warrants in payment thereof prior to date such claims become due and payable, and hold such warrants for delivery until the claims become due and payable. Such warrants shall be dated as of the due date of the claim and shall not be delivered to the claimant until the end of the pay period. The Treasurer is hereby authorized to countersign such warrants and to make such entry as to properly take them into account. In order that such warrants may be ready for delivery at the end of the pay period, the Comptroller is authorized to make such rules and regulations as may be necessary for filing pay roll claims in advance of the pay period, and for the preparation and writing of warrants in payment thereof to adequately and properly achieve such purpose. As amended Acts 1945, 49th Leg., p. 432, ch. 274, § 1.

Emergency. Effective May 31, 1945.

Art. 4362. Bond clerk; assistants; duties

The Comptroller shall appoint a bond clerk whose term of office shall be at the pleasure of the Comptroller, and who shall first take the official oath and give bond in the sum of Ten Thousand (\$10,000.00) Dollars, payable to the Comptroller, conditioned upon the faithful performance of his duties. Such clerk shall, under the supervision, direction, and authority of the Comptroller, perform all duties with reference to the registration of bonds imposed upon the Comptroller by the provisions of the preceding and succeeding articles, and shall have authority to sign the name of the Comptroller to all certificates of registration of bonds required by law to be registered by the Comptroller, and which bonds are registered by such bond clerk, as provided herein. In the absence of the bond clerk the duties herein imposed upon such bond clerk may

be performed in like manner by the chief clerk. The Comptroller shall also designate and appoint, from the personnel of his employees, assistants to the bond clerk. Such assistant or assistants, when designated by the Comptroller, shall, under the direction and authority of the Comptroller, perform all duties with reference to the registration of bonds imposed upon the Comptroller by the provisions of Title 70, Chapter 2, of the Revised Civil Statutes of 1925, of the State of Texas, and shall have authority to sign the name of the Comptroller to all certificates of registration of bonds required by law to be registered by the Comptroller, and which bonds are registered by such bond clerks as provided herein. The duties of such assistants when designated or appointed by the Comptroller, shall be in addition to and cumulative of any other duties that may be assigned to such employee. The appointment and designation of such assistant bond clerk or clerks shall be in writing, certified under the seal of the Comptroller and filed with the bond clerk. As amended Acts 1945, 49th Leg., p. 11, c. 7, § 1.

Emergency. Effective Feb. 21, 1945.

Art. 4366a. Money received under federal flood control law; disposition

Section 1. The Comptroller of Public Accounts of this state is hereby authorized to receive and receipt for all funds due or payable, or hereafter to become due or payable, by virtue of the Act of Congress of August 18, 1941, Chapter 377, Section 7, 55 Stat. 650, 33 U.S.C.A., Section 701c—3. All of such funds shall be placed in a separate account entitled "Flood Area School and Road Fund" to the credit of the Comptroller of Public Accounts and shall never become a part of the general funds of the state. The Comptroller shall annually pay over such funds to the school district or districts, county, or other political subdivision, as hereinafter provided, to be expended for school purposes, or on the roads, as contemplated by the Act of Congress.

Sec. 2. It shall be the duty of each school district tax collector, county tax collector, or other person charged with the duty of collecting school taxes or road taxes, the territory of which district, county or other political subdivision is within, or partly within, any flood control district, or flood control area, created or designated under authority of law, to prepare and file with the Comptroller of Public Accounts of this state a report under oath showing the total number of acres of land acquired by the United States for flood control purposes within the boundaries of such school district, county, or other political subdivision; and the tax rate per one hundred dollars of valuation for school purposes and for road purposes levied by such district, county, or other political subdivision for the year in which such report is made.

Sec. 3. On or before the 15th day of September of the year 1945 and each year thereafter, the Comptroller of Public Accounts shall pay to the school district or districts and to the county or other political subdivision collecting road taxes, their proportionate share of funds on deposit in such "Flood Area School and Road Fund" which were produced by leases upon lands acquired by the United States for flood control purposes located within such school district, county or other political subdivision, the pro rata to be allotted to the school districts and to the road taxing entity to be based upon the proportion which their respective tax rates bears to the sum of the two rates. The Comptroller shall add the school district tax rate and the road tax rate together and the school district shall be entitled to receive such a percentage of the "Flood Area School and Road Fund" as their tax rate bears to the sum of the school tax rate and the road tax rate; and the county, or other road taxing

entity, shall be entitled to receive its proportionate part of such fund based upon the proportion which its tax rate bears to the sum of the two tax rates. If, during any school year, there shall be on hand in said "Flood Area School and Road Fund" any moneys which may be distributable to any school district, the Comptroller of Public Accounts may in his discretion, upon application of such school district or districts, make a distribution of such funds upon any dates other than those above fixed, as may be determined by him. Acts 1945, 49th Leg., p. 387, ch. 250.

Emergency. Effective May 28, 1945.

Title of Act:

An Act authorizing the Comptroller of Public Accounts of this state to receive and receipt for funds to be paid by the Secretary of the Treasury under the provi-

sions of the Act of Congress of August 18, 1941, Chapter 377, Section 7, 55 Stat. 650, Title 33, U.S.C.A., Section 701c-3; authorizing and regulating the time, method and manner of disbursement of such funds; and declaring an emergency. Acts 1945, 49th Leg., p. 387, ch. 250.

CHAPTER THREE—STATE TREASURER

Art.

4385a. New; Unconstitutional.

4393a. Trust funds [New].

Art. 4385a. Unconstitutional

This article, derived from Acts 1943, 48th Leg., p. 469, ch. 313, § 2, authorizing the transfer of the unexpended balance in each of seventeen special funds mentioned, which exceeded an amount equivalent to the receipts deposited to the credit of such special funds during the preceding fiscal year to the General Revenue Fund, was unconstitutional on the ground that the title to the act contained nothing to indicate that the body of the act purported to transfer the special funds mentioned in such section. See *Gulf Ins. Co. v. James*,

Sup., 185 S.W.2d 966, reversing *James v. Gulf Ins. Co.*, Civ.App., 179 S.W.2d 397.

In an earlier case, the Court of Civil Appeals, in *James v. Joseph*, Civ.App., 179 S.W.2d 411, reversed Sup., 185 S.W.2d 974, held that Acts 1943 c. 313 did not violate constitutional provisions pertaining to caption and prohibiting amendment of laws by reference to their title and denying to legislature power to borrow or divert from its purpose any special fund that may or ought to come into treasury.

Art. 4393a. Trust funds

That all moneys and other securities placed in the hands of the State Treasurer in trust for any legal purpose shall be received by the State Treasurer on a deposit receipt issued by the State Comptroller as provided in Article 4354, Revised Civil Statutes of Texas, 1925, as amended by House Bill No. 495, Chapter 243, Acts of the Regular Session, 42nd Legislature. Such moneys or other securities shall be held in trust by the State Treasurer in like manner as the Departmental Suspense Account is held under Article 4388, Revised Civil Statutes of Texas, 1925, as amended by House Bill No. 493, Chapter 242, Acts of the Regular Session, 42nd Legislature. Such moneys or other securities shall be withdrawn by trust and suspense draft in the case of money, and withdrawal authorization in the case of other securities, which instruments shall be issued serially and signed by the State Comptroller. Any and all moneys received in trust, or for any legal purpose for which a state deposit warrant has not or cannot immediately be issued, shall be handled by the Treasurer in the same manner as items deposited in departmental suspense accounts. All moneys and securities now held in trust in the State Treasury shall immediately be transferred to the trust and suspense section of the state's accounting, and thenceforth transferred, refunded or disposed of according to the provisions of this Act. Adequate registers, ledgers and files shall be maintained by the State Treasurer, and by the State Comptroller, to account for the receiving and

disposing of all trust and suspense moneys and other securities, which registers and ledgers shall be known as "Trust and Suspense Record."

Nothing herein shall be construed as amending Section 2 of House Bill No. 684, Chapter 3, Acts of the Regular Session, 46th Legislature; nor as amending Senate Bill No. 89, Chapter 324, Acts of the Regular Session of the 48th Legislature.¹ Acts 1945, 49th Leg., p. 294, ch. 212, § 1.

¹ Article 6674q-1 et seq.

Emergency. Effective May 16, 1945.

Title of Act:

An Act providing the method of receiving and disposing of all trust and suspense moneys and other securities by the State Treasurer; providing for the accounting for such moneys and securities

by the Treasurer and the State Comptroller; and providing for supervision and control of such moneys and other securities by the State Comptroller while they are held in trust by the Treasurer; and declaring an emergency. Acts 1945, 49th Leg., p. 294, ch. 212.

CHAPTER SIX—VETERANS' PREFERENCES

Art.

4413(31). Preference of veterans in appointment or employment [New].

Art. 4413(30). Repealed. Acts 1945, 49th Leg., p. 627, ch. 357, § 8. Eff. June 18, 1945

Art. 4413(31). Preference of veterans in appointment or employment

Section 1. That from and after the effective date of this Act, in every public department, commission, board, and governmental agency, and upon all public works of this State, all honorably discharged soldiers, sailors, marines, members of the air corps and coast guard of the United States, nurses in military service of the United States, and all women in military service of the United States in the different auxiliary services thereof, in the Spanish-American War, Philippine Insurrection, China Relief Expedition, World War I and World War II, or in any other military conflict in which the United States of America has been a participant, who are and have been citizens of Texas for not less than five (5) years preceding the date of application in pursuance of this Act, and are competent and fully qualified, shall be entitled to preference in appointment or employment over other applicants for the same position having no greater qualifications; provided, that this Act shall not apply or benefit any person who was a conscientious objector at the time of his or her discharge from any of the military services herein mentioned.

Sec. 2. The person or persons whose duty it is or may be to appoint or employ persons for or on behalf of the public departments, commissions, boards and other governmental agencies and public works as set out in Section 1 hereof, shall ascertain the number of employees therein and shall give preference to persons entitled thereto under and in accordance with this Act, to the extent that not less than forty per cent (40%) of the total number of employees so employed shall be selected from those by this Act given preference; provided, however, that on and after the effective date of this Act those public departments, commissions, boards, and other governmental agencies and public works of this State which do not have a forty per cent (40%) quota as herein prescribed, shall, upon replacing employees in vacancies existing give preference to persons granted preference hereby, until such time as it or they shall have reached the prescribed total of forty per cent (40%); provided, however, that not less than twenty-five per cent (25%) of said employees hereby given preference shall be so employed not later

than January 1, 1947, and not less than the full forty per cent (40%) by January 1, 1948; provided further, however, that wherever possible ten per cent (10%) of those given preference under this Act shall be taken from those veterans who have been discharged from the armed services of the United States within the preceding eighteen (18) months.

Sec. 3. Persons entitled to preference under this Act shall not be disqualified from holding any position or employment hereinbefore mentioned on account of age or by reason of any service-connected disability, provided such age or disability does not render him or her incompetent to properly and capably perform the duties of the position or employment applied for. In all public departments, commissions, boards and other governmental agencies and public works of this State which now require or may hereafter require a competitive examination under a Merit System or Civil Service Plan of either or both selecting and promoting employees, such person who is otherwise eligible and qualified for and entitled to preference under this Act, who shall have been so examined and shall have attained at least the minimum required score for such test or tests, shall have a service credit amounting to five (5) points added to the earned rating, and a service credit amounting to five (5) additional points shall be added to the earned rating of each such person who has a service-connected disability which has been or may be established by official records, which records such disabled person shall furnish to the person or persons whose duty it is to fill the position or employment applied for. In any public departments, commissions, boards, governmental agencies and public works of this State where competitive examinations for such purposes are not now or hereafter held, those entitled to preference under this Act and having such service-connected disability so to be established and proof of the existence thereof furnished as hereinbefore provided, shall be entitled to preference for employment or appointment over all other applicants for the same position without any such disability and having no greater qualifications.

Sec. 4. When any person entitled to preference under Section 1 of this Act shall apply for appointment or employment under this Act, the officer, executive head of the department or person or persons whose duty it is to appoint or employ some person to fill the position or employment applied for, shall, before appointing or employing any one to fill such position or employment, make an investigation as to the qualifications of such applicant for such position or employment, and if the applicant is a person of good moral character, and can perform the duties of the position or employment applied for as hereinabove provided, such officer, head of department, or other person or persons having the appointive duty and power shall appoint or employ the applicant to such position or employment. Provided, however, that the provision of this Section shall not be operative if the said department, board, commission, governmental agency or public works shall have in its employment at the time the percentage required under Section 2 hereof of those entitled to preference under this Act.

Sec. 5. If any provision of this Act shall be found to be in conflict with the Federal Laws, or any limitations fixed by Federal grants of funds to the public departments or governmental agencies, this Act shall be so construed as to operate to the extent only with reference to such Federal grants as it may be found to be in harmony therewith, and shall be in force with reference to said funds, to the extent of its harmonious provisions, and no further.

Sec. 6. Nothing in this Act shall be construed to apply to the position of private secretary or deputy of any official or department or to

any person holding a strictly confidential relation to the appointing or employing officer.

Sec. 7. If any section, subsection or paragraph hereof be held unconstitutional or invalid for any reason, it shall be presumed that this Act would have been passed by the Legislature without such invalid section, subsection, paragraph, sentence, provision, clause or phrase and such holding shall not in any way affect the remainder of the Act.

Sec. 8. Senate Bill No. 190, Chapter 1 of the Acts of the Forty-sixth Legislature, 1939, Regular Session, is hereby repealed.¹ The provisions of this Act shall be cumulative of all laws on this subject, and whenever the provisions of this Act are in conflict with any existing law or laws on this subject, the provisions hereof in so far as same are in conflict with any existing law or laws, shall govern and control. Acts 1945, 49th Leg., p. 627, ch. 357.

¹ Article 4413(30).

Emergency. Effective June 18, 1945.

Title of Act:

An Act providing for preference of employment in all public departments, commissions, boards, and all other governmental agencies and upon public works of this State and of all counties, cities, towns, and school districts thereof, of honorably discharged soldiers, sailors, marines, members of the air corps and coast guard of the United States, nurses in military service of the United States, and all women in military service of the United States in the different auxiliary services thereof, in the Spanish-American War, Philippine Insur-

rection, China Relief Expedition, World War I, and World War II, and other wars; providing the per cent of preference; providing the mode and manner of ascertaining said per cent; providing qualifications for applicants; providing remedies for enforcement of the preference granted; providing certain exemptions from said Act; providing a saving clause; repealing all provisions of Senate Bill No. 190, Acts of the Forty-sixth Legislature, Regular Session, Chapter 1, Page 617; providing this Act shall be cumulative of all laws on this subject; and declaring an emergency. Acts 1945, 49th Leg., p. 627, ch. 357.

TITLE 71—HEALTH—PUBLIC

Chap.

Four A. Sanitation and Health Protection [New] - - - - - Art.
4477—1

CHAPTER ONE—HEALTH BOARDS AND LAWS

Art.

4419c. Crippled children restoration service for; Crippled Children's Division's powers; transfer of funds; federal funds [New].

Art.

4442b. Convalescent homes [New].

Art. 4418d. Duties of State Health officer

Livestock remedies, registration of, see art. 192—1.

Art. 4419c. Crippled children restoration service for; Crippled Children's Division's powers; transfer of funds; federal funds

Section 1. That there is hereby created in the State Department of Health a physical restoration service for crippled children under twenty-one (21) years of age. This service shall make provisions for locating, examining, and physically restoring crippled children of the State as hereinafter provided.

Sec. 2. A crippled child is defined as any person of normal mentality, under twenty-one (21) years of age, whose physical functions or movements are impaired by reason of a joint, bone, or muscle defect or deformity, to the extent that the child is or may be expected to be totally or partially incapacitated for education or remunerative occupation. To be eligible for rehabilitation service under this Act, the child's disability must be such that it is reasonable to expect that such child can be improved through hospitalization, medical or surgical care, artificial appliances, or through a combination of these services.

Sec. 3. The Crippled Children's Division of the State Department of Health is empowered to take census, make surveys and establish permanent records of crippled children; to procure medical and surgical service for crippled children, provided that only physicians legally qualified to practice medicine and surgery in Texas be employed for purposes of diagnosis and treatment, that not more than the customary minimum fees be paid for such services, and that physicians or surgeons so employed shall be approved by the State Board of Health as qualified to render such service; to select and designate hospitals for the care of crippled children contemplated by this Act, and to take such other steps as may be necessary in order to accomplish the purposes of this Act.

At the discretion of the State Department of Health, transportation, appliances, braces and material necessary in the proper handling of crippled children may be in part or entirely provided.

The State Department of Health is directed to provide in Rules and Regulations, the necessary details for the conduct of this work, in accordance with the purposes of this Act, which shall permit as far as possible, the free choice of patients in their selections of physicians and hospitals, and shall arrange with hospitals, brace departments and other services providing for crippled children's work, compensation for such services, provided that such fees or charges shall not exceed the average charges for the same services rendered to patients in the hospitals approved for purposes of this Act.

Sec. 4. That no child shall be entitled to the care and treatment provided in this Act unless the county judge of the county in which the child resides shall certify to the State Department of Health upon sworn petition of the parents of said child, or persons standing in loco parentis, proven to the satisfaction of said judge, that the parents of said child, or persons standing in loco parentis, are financially unable to provide for said care and treatment.

That children whose parents, or those in loco parentis are financially able to pay in part for such treatment and care may be provided for by the State Department of Health under such rules and regulations as may be prescribed by the Department of Health.

Provided further that said county judge must also certify that one or more physicians, regularly practicing under the laws of the State of Texas, have examined said child and have recommended said child as coming under the provisions and intent of this Act. Provided further that no judge or official agent shall, by virtue of this Act, have any right to enter any home over the objection of the parents, or either of them, or the person standing in loco parentis of such child, and nothing in this Act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis over such child.

Sec. 5. The State Board of Health is authorized to make such rules, regulations, policies, and employ such personnel as is necessary to carry out the provisions of this Act, and to secure such clerical assistance, equipment and supplies as are needed.

Sec. 6. The State Department of Health is authorized to receive gifts and donations for this work. All gifts and donations for crippled children's work shall be paid into the State Treasury and the same are hereby reappropriated for the purposes of this Act. The Treasurer of the State of Texas shall pay out all money and funds provided for in this Act upon proper warrant issued by the Comptroller of the State of Texas drawn upon vouchers approved by the State Department of Health and the Department of Health shall report annually to the Governor amounts received and expended and work accomplished.

Sec. 8. The State Department of Health is empowered and directed to take all action necessary to accomplish the purposes provided or implied by this Act, and to cooperate with public agencies, Federal, State, county and local, and with private agencies and individuals interested in the welfare of crippled children.

The State Department of Health is hereby designated as the agency to receive funds which are appropriated by the Federal Government to be used in the State of Texas in matching State funds which are appropriated by the Legislature, or to receive any other funds which are not required to be matched by the Legislature for the physical restoration of crippled children as provided for in this Act. Acts 1945, 49th Leg., p. 298, ch. 216.

Emergency. Effective May 16, 1945.

Section 7 of the Act of 1945 provided for the transfer to the Division of Crippled Children within the State Department of Health of moneys in custody of crippled children's section of the Vocational Rehabilitation Division of the State Department of Education and authorized the State Treasurer and Comptroller of Public Accounts to transfer such accounts.

Section 9 repealed all conflicting laws and parts of laws.

Title of Act:

An Act creating a physical restoration service for crippled children in the State

Department of Health; providing definition of crippled children; providing for the powers and duties of said service; granting unto said service power to establish diagnostic clinics and to designate hospitals for the care, treatment and hospitalization of crippled children and to pay the costs thereof in cases of indigent children; designating the county judge as the agency to determine and certify who are indigent children; providing for administration of this Act; providing for the transfer of moneys and accounts of the Vocational Rehabilitation Division of the State Department of Education to the Crippled

Children's Division of the State Department of Health; providing for the receiving of Federal funds, gifts, donations, and any other funds and manner of dis-

bursement; repealing all laws and parts of laws only to the extent of the conflict of this Act; and declaring an emergency. Acts 1945, 49th Leg., p. 298, ch. 216.

4437a. Hospital control in counties of 200,000 or over; tuberculosis control

Section 1. That all counties in Texas having a population of 200,000 or more inhabitants as shown by the last preceding Federal Census, in which are established hospitals jointly owned and operated by any city and county, in which said hospital is located, the said counties or cities under the terms of a mutual agreement, and not otherwise, are hereby authorized to designate either the county or city government for the purpose of taking over the entire ownership and control of such hospitals upon such terms as may be mutually agreed upon between the city and county owning such hospitals and operating the same, and providing further that such portions of the tax hereinafter referred to shall, if voted by a majority of the qualified voters, be used to take care of the interest and sinking fund required by law on all outstanding bonds of the city or county heretofore issued which have been incurred against the building or maintenance of said hospitals or that may hereafter be issued. That in case it is determined by said mutual agreement for the city to take over the said hospitals and operate the same, the board of managers may be appointed by the governing body of the city in accordance with the terms of its charter or in accordance with its judgment. As amended Acts 1945, 49th Leg., p. 466, ch. 295, § 1.

Sec. 3. A direct tax of not over 20¢ on the valuation of \$100.00 may be authorized and levied by the Commissioners Court of such county for the purpose of erecting buildings or other improvements and for operating and maintaining such hospital; provided that all such levy of taxes shall be submitted to the qualified taxpaying voters of the county, and a majority vote shall be necessary to levy the tax. Successive elections may be held to authorize additional taxes hereunder provided the total tax shall not exceed the maximum of 20¢ per \$100.00 valuation, as hereinabove provided. As amended Acts 1945, 49th Leg., p. 466, ch. 295, § 2.

Sec. 6A. (a). The governing bodies of the county, and of the city or cities within said county adopting the provisions hereof as herein provided, are hereby authorized to conduct a joint program of tuberculosis control within said city or cities and county, having for its object the protection of public health be¹ the alleviation, suppression and prevention of the spread of tuberculosis. Such program may include cooperation with all public or private agencies, federal, state or local, having the same objective, and shall include providing economic aid in the discretion of the Board hereinafter created, under medical certification as hereinafter provided, to indigents suffering from tuberculosis and to dependent members of their immediate family as a part of the total treatment of and as an aid in the prevention of the spread of the disease, for the protection of the public health.

(b). The County Commissioners Court is hereby authorized to levy a direct annual tax of not to exceed 10¢ on the \$100.00 valuation, which shall be in addition to the tax authorized by Section 3 herein, and the funds produced thereby shall be kept separate from other funds and shall be used solely for the purposes set forth in this section; provided that such levy of taxes shall be first submitted to the qualified taxpaying voters of the county, and a majority vote shall be necessary to levy the tax. The governing body of the city or cities acting hereunder shall

likewise be authorized to levy a direct tax of not to exceed 5¢ on the \$100.00 valuation to provide funds to be used for the same purpose, and in such joint program of tuberculosis control, provided that such tax shall be first submitted to and approved by a majority vote of the tax-paying voters of said city or cities, in accordance with the city charter, or charters, which charter or charters may be amended to provide said fund by means of such tax or otherwise according to law in cities operating under general law. Such fund shall be kept separate from other city funds and shall be used only for the purpose herein stated.

(c). For the purpose of administration of this section, in the event such county and city or cities engage in such program and vote such special taxes, such city or cities and county shall have power to create a City-County Tuberculosis Control Board, to be composed of five or more members, one to be appointed by the County Health Board of the county, one by the City Health Board of the city having the largest population according to the last preceding Federal Census, one by the County Judge of the county, one by the Mayor of each city participating in such program, and one by the majority action of the District Judges of the county. Members of such Board shall serve without compensation.

(d). The first term of office for the Board members appointed by the County Health Board and by the Mayor or Mayors shall be for one year from date of appointment. The first term of office for the two Board members appointed by the City Health Board and the County Judge shall be for two years from date of appointment. The first term of the member appointed by the District Judges shall be for three years from date of appointment. Upon the expiration of the first terms, their successors shall each serve for three year terms, and such successors shall be appointed by the original appointing authority in each case. Vacancies caused by death or resignation shall be filled for the unexpired term by the original appointing authority.

(e). The Board shall have power to carry out the terms of this section in order to alleviate, suppress and prevent the spread of tuberculosis within the county, as a public health function, subject to the provisions hereof. The funds derived from the special taxes herein authorized shall be combined together by joint action of the county and city or cities and be expended by or under the direction of such Board subject to the limitations herein; provided that such funds shall be expended to provide necessary economic aid to indigent persons suffering from tuberculosis and dependent members of their immediate family, upon certification in each case to the Board by the city or county health officer, to the effect that the persons receiving such aid are indigents, and that they are bona fide residents of the county and have been for more than six months; and such funds may also be expended to provide for administration expenses hereunder, including case investigation and necessary equipment and services, but for no other purposes.

(f). The Board shall make quarterly reports to the governing boards of the county and city or cities acting hereunder, stating the condition of the fund and expenditures made therefrom, and the services performed; and the county, and city or cities participating, shall have the right to examine and audit the books and records of said Board.

(g). This section shall be cumulative of other laws, and shall not operate to repeal any other part of this title. Added Acts 1945, 49th Leg., p. 466, ch. 295, § 3.

1. So in enrolled bill. Probably should read "by."

Emergency. Effective June 4, 1945.

Section 4 of the Act of 1945, read as follows: "If any clause, requirement, provision or part of this Act shall, for any reason be adjudged by any court of com-

petent jurisdiction to be invalid, such judgment shall not invalidate the remainder of this Act, but shall be confined in its operation to the clause, requirement, provision or part thereof declared invalid."

Art. 4442a. Day nursery for care and custody of children

Transfer of child welfare services to Department of Public Welfare, see art. 695e.

Art. 4442b. Convalescent homes

Section 1. It shall be unlawful for any person, firm or corporation to establish, operate or maintain a convalescent home in this State without first having obtained from the State Department of Public Health a license for such purpose, as hereinafter provided.

Sec. 2. Definition. A convalescent home, as covered by this Act,¹ is hereby defined as any place or establishment where three (3) or more pension or old age assistance recipients are housed for hire or profit; provided, however, any place or establishment operating as an hotel, hospital, inn, or tourist camp shall not come under the provisions of this Act.

Sec. 4. The licenses herein provided for shall be prepared and issued by the State Department of Public Health in pursuance to proper applications therefor. The form of such applications shall be prepared by said Department. A license fee of One Dollar (\$1) shall be charged and collected by said Department for each license so issued by it. Such fees shall be deposited in the State Treasury to the credit of the General Fund.

Sec. 5. The State Department of Public Health shall make a proper investigation concerning each application for license hereunder, and shall deny a license to any applicant when such investigation so warrants. Said Department is further authorized and empowered to revoke any license issued hereunder at any time, after reasonable notice and hearing, upon satisfactory proof of the existence of unsanitary and/or unwholesome conditions in such convalescent home so licensed.

Sec. 6. Such convalescent homes shall be open at all reasonable times to inspection by the State Department of Public Health, and each home shall be inspected by said Department at least once every three (3) months. Said Department shall make and file with the Governor of this State during the month of January of each year an annual report concerning the condition of such homes. Acts 1945, 49th Leg., p. 577, ch. 342.

¹ Article 4442b; P.C. art. 701b.

Effective 90 days after June 5, 1945, date of adjournment.

Section 3 of the Act of 1945, being a Penal provision, is published as P.C. 701b.

Title of Act:

An Act regulating and licensing con-

valescent homes; defining terms; providing certain exceptions; providing penalties; allocating funds; providing for inspection and reports; and declaring an emergency. Acts 1945, 49th Leg., p. 577, ch. 342.

CHAPTER THREE—FOOD AND DRUGS

Art.

4476—3. Meat inspection [New].

Art. 4476—3. Meat inspection

Section 1. Style of Act: This Act¹ shall be styled "The Meat Inspection Law."

Sec. 2. Interpretation: This Act shall be construed so as to effectuate its general purpose, to prohibit and prevent the sale of food for human consumption of meat from animals where said animals suffer from diseases communicable to human beings, and to provide adequate

and uniform regulations for inspection of meat and meat products intended for human consumption, thereby protecting the public health.

Sec. 3. Definitions: The following definitions shall apply in the interpretations in this Act:

(a) **Meat Product:** Any edible part of the carcass of any cattle, calf, sheep, swine, or goat which is not manufactured, cured, smoked, processed, or otherwise treated.

(b) **Meat food product:** Any article of food or any article which enters into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of the carcass of any cattle, calf, sheep, swine, or goat, if such portion is all or a considerable and definite portion of the article, except such articles as organotherapeutic substance, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession.

(c) **Meat and products:** Carcass, parts of carcass, meat, products, food products, meat products, and meat food products, of or derived from, cattle, calf, sheep, swine, and goats, which are capable of being used as food by man.

(d) **Prepared meats:** The products obtained by subjecting meat to a process of comminuting, drying, curing, smoking, cooking, seasoning, or flavoring, or any combination of such process.

(e) **Official establishment:** Any slaughtering, meat canning, curing, smoking, salting, packing, rendering, or other similar establishments at which inspection is maintained under these regulations.

(f) **Person:** Natural persons, individuals, firms, partnerships, corporations, companies, societies, and associations, and every agent, officer, or employee of any thereof. This term shall import both the plural and the singular as the case may be.

(g) **Subsidiary:** Any individual, firm, partnership, corporation, company, or association, in whose name any business is controlled, or owned, in whole or in part, directly or indirectly, by another.

(h) **Inspection Legend:** A mark or statement authorized by these regulations on an article or on the container of an article indicating that the article has been inspected and passed for human food by a representative of the Food and Drug Division of the State Department of Public Health of the State of Texas, or by persons authorized by the State Department.

(i) **Label:** A display of written, printed, or graphic matter upon any meat, meat by-product, prepared meat, or meat food product, or the immediate container thereof, and a requirement made by or under authority of this Act that any word, statement, or other information also appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be, of the retail package of such meat, meat by-product, prepared meat or meat food product, or is easily legible through the outside container or wrapper.

(j) **Labeling:** All labels and other written, printed, or graphic matter (1) upon any meat, meat by-products, prepared meat, or meat food products or any of its containers or wrappers, or (2) accompanying such meat, meat by-product, prepared meat, or meat food products.

(k) **"Texas State Inspected and Approved Establishment No. —":** That the carcass, parts of carcass, meat, meat products, prepared meat, or meat food products so marked have been inspected, passed, and labelled under the provisions of this Act and under the regulations and specifications promulgated by the State Board of Health under the authority of this Act, and that at the time they were inspected, passed, and so

marked they were found to be sound, healthful, wholesome and fit for human food.

Sec. 4. Rules and Regulations. The State Health Officer is hereby authorized and empowered, from time to time, to make such rules and regulations as are necessary to prevent and prohibit the sale of meat for food for human consumption when such meat is unfit for human consumption and dangerous to human health, and for the efficient execution of the provisions of this Act; and all inspections and examinations made under this Act shall be such and shall be made in such manner as prescribed in the rules and regulations promulgated by the State Health Officer and shall not be inconsistent with or an enlargement upon the provisions of this Act.

Sec. 5. Meat Inspection. The meat inspection provided by this Act shall be under the supervision of the State Health Officer of the State of Texas.

Sec. 6. Enforcement of Act. The Board of Health, through its representatives, shall supervise and regulate the processing, handling, and labeling of meat, meat by-products, prepared meat, or meat food products in conformity with the definitions, specifications, and standards which the State Health Officer promulgates and in conformity with the provisions of this Act; and the State Board of Health shall have the power to revoke permits as herein provided, when upon examination and hearing it is found that any provisions or Section of this Act or any provision of any regulation promulgated by authority of this Act have been violated.

Sec. 7. Inspection mark, stamp, tag, or label. The State Health Officer is hereby authorized and empowered to have designed a distinctive inspection mark, stamp, tag, or label which shall state "Texas State Approved Establishment No. —" and said mark, stamp, tag, or label shall be applied by an authorized person to all products found to be sound, healthful, wholesome, and fit for food for human consumption and shall contain no chemicals, dyes, preservatives, or ingredients which render such meat, prepared meat or meat food products unfit for human food. The State Health Officer is hereby authorized and empowered to condemn such meat or meat products or meat food products or prepared meat found unsound, unhealthful, and unwholesome or shall contain chemicals, dyes, preservatives, or ingredients which render such meat or meat food products unsound, unhealthful, unwholesome or unfit for human food and all such condemned meat food products shall not be sold for human consumption. Provided further that meats bearing the inspection mark, stamp, tag, or label of the United States Department of Agriculture shall be considered as conforming to this Act.

Sec. 8. False use of inspection mark, stamp, tag, or label prohibited. That for the purposes hereinbefore set forth the State Health Officer or his representatives shall cause to be made by inspectors provided for that purpose, such inspections of all slaughtering, meat canning, sausage factories, salting, packing, rendering, or similar establishments in which cattle, calves, sheep, swine, or goats are slaughtered and the meat or meat food products thereof prepared for sale for human food within the State of Texas, as may be necessary to inform himself concerning the sanitary conditions of the same and to prescribe rules and regulations of sanitation under which such establishment shall be maintained not inconsistent with United States Department of Agriculture Bureau of Animal Industry Order No. 211 as revised; and where the sanitary conditions of such establishment are such that the meat or meat food products are rendered unclean, unsound, unhealthful, unwholesome or otherwise unfit for human food, he shall refuse to allow such

meat or meat food products to be labeled, marked, stamped, or tagged as "Texas State Approved Establishment No. ———".

Sec. 9. Application for Texas State Approved Establishment No. ———. Any person, firm, association, or corporation desiring to use the inspection mark, stamp, tag or label as provided in Section 7 of this Act in representing, publishing, or advertising any meat or meat food products offered for sale or to be sold within this State shall make application for a permit to the State Board of Health at Austin, Texas, who shall take the necessary steps to determine and award the permit for the use of a Texas State Approved Establishment No. ——— to such application, all in accordance with the rules and regulations of the State Board of Health as provided for herein.

All meats or meat food products bearing the inspection mark, stamp, tag, or label shall be permitted to be offered for sale, sold, or transported anywhere within the geographical limits of the State of Texas.

Sec. 10. Meat to conform to label. No meat or meat products sold, produced, or offered for sale within this State by any person, firm, association, or corporation shall carry a label, device, or design marked "Texas State Approved Establishment No. ———," or any other grade, statement, design, or device regarding the safety, sanitary quality, or the wholesomeness and fitness of said food for human consumption which is misleading or which does not conform to the definition and requirements of this Act.

No meat or meat products, except those produced or processed by a person, firm, association, or corporation having a permit to use the "Texas State Approved" label under the provisions of this Act and which are produced, treated, and handled in accordance with the specifications and requirements promulgated by the State Board of Health for sound, healthful, and wholesome meat and meat products shall be represented, published, labeled, or advertised as being "Texas State Approved Meat Products."

Sec. 11. Regulations of Inspection and Labeling by State Board of Health. The State Board of Health through the State Health Officer is hereby authorized and empowered to supervise and regulate the inspecting and labeling of meat and meat products in conformity with the standards, specifications, and requirements which it promulgates for the purpose set forth in this Act and in conformity with the definitions of this Act. The State Board of Health shall have the power, after due notice to the affected permittee sent by registered mail and after the hearing to be had in accordance with regulations to be issued covering this subject, to revoke permits issued when, upon such hearing, it shall be found that such permittee has violated some provision of this Act, or has failed to comply with some proper regulation issued under the provisions of this Act.

Sec. 12. Adoption by cities. The governing body of any city in the State of Texas may make mandatory the provisions of this Act and the inspection and labeling of meat and meat food products produced, sold, or offered for sale within their respective jurisdictions by adopting any ordinance to that effect and by providing the necessary facilities for inspection and for the enforcement of this Act.

Any city adopting any specifications and regulations as a basis for issuing any permit for the use of the "Texas State Approved Meat for Human Food" label on meat and meat food products shall be governed by the specifications and regulations promulgated by the State Board of Health as herein authorized.

Sec. 13. Application for permits. Any person, firm, association, or corporation desiring to use the "Texas State Approved" meat label in

representing, publishing, or advertising any meat, or meat food products offered for sale or to be sold within this State for food for human consumption shall make application to the State Board of Health, prior to the use of such a label for a permit to use any such label in advertising, representing, or labeling such meat or meat food products.

Sec. 14. Authority to issue and revoke permit. The State Health Officer receiving such applications as provided for in Section 4 of this Act is hereby authorized and empowered to award to such applicant a permit to use the "Texas State Approved" meat label according to the requirements of this Act. The State Board of Health shall have the power to revoke any permit issued, after notice by registered mail to the affected permittee and after a hearing to be held in accordance with regulations issued covering this subject, when upon examination and hearing it is found that any penal provision or Section of this Act has been violated. The State Health Officer shall keep a record for public inspection of all reports received, and the issuance or revocation of permits under this Act.

Sec. 20. Constitutionality. That in the event any Section, or part of Section, or provision of this Act, be held invalid, unconstitutional, or inoperative, this shall not affect the validity of the remaining Sections or parts of Sections of this Act, but the same shall continue in full force and effect. Acts 1945, 49th Leg., p. 554, ch. 339.

¹ Article 4476—3, P.C. art. 719d.

Effective 90 days after June 5, 1945, date of adjournment.

Sections 15-19 of the Act of 1945 being Penal provisions, are published as P.C. 719d.

Section 21 repealed all conflicting laws or parts of laws.

Title of Act:

An Act providing for the protection of the public health; defining certain terms used in the Act; authorizing the State Health Officer to define and fix the specifications and standards for certain meat and meat food products sold for human food as defined in the Act; providing for voluntary adoption by cities, persons, firms, associations, or corporations; providing that specifications and standards defined and fixed shall be in harmony with the regulations contained and set out in this Act; authorizing the State Health Officer and his representatives to supervise and regulate the processing and labeling of meat and meat products sold for human food; enabling cities to require all meat and meat products sold for human food and sold within their boundaries to be inspected and labeled as set out in the Act; forbidding the use of certain meat labels except under certain conditions and providing penalties and remedies for violation of said provisions; providing that specifica-

tions for approved meat and meat products sold for human food shall conform to the current regulations and requirements governing the meat inspection of the U. S. Department of Agriculture now known as Bureau of Animal Industry Order No. 211 as revised; authorizing the State Health Officer and his representatives to supervise and regulate the labeling of meat and meat food products sold for human food and to revoke permits; providing for the State Health Officer to approve slaughter establishments; prohibiting the duplication and reproduction of labels authorized under this Act and the use of any unauthorized labels; forbidding the use of approved labels or other designs or definitions misrepresenting the grade of meat or meat food products; providing a penalty for slaughtering diseased cattle for human food, and/or offering for sale meat from diseased cattle for human food, requiring diseased cattle to be slaughtered at certain plants; providing penalties for the violation of this Act; providing that if any portion of the Act be held unconstitutional, inoperative, or invalid, the remainder of the Act shall be unaffected thereby; repealing all laws or parts of laws in conflict herewith; and declaring an emergency. Acts 1945, 49th Leg., p. 554, ch. 339.

CHAPTER FOUR—SANITARY CODE

1. ORGANIZATION

Art. 4477. Sanitary code

Rule 47a. Contents of birth certificate.

(25) And provided that the name of the father, or any information by which he might be identified, shall not be written into the birth or

death certificate of any illegitimate child; and provided, further, that any statement that the father of an illegitimate child wishes to make as to its parentage, may, when placed in the form of an affidavit, be attached to the original birth record. Neither the State Registrar nor any local Registrar shall issue a certified copy of any birth or death certificate, wherein a child or an adult is stated to be illegitimate, unless such certified copy is ordered by the County Court in the county in which said child was born or died, or by a Court of competent jurisdiction, or by said illegitimate person or the guardian or legal representative thereof. As amended Acts 1945, 49th Leg., p. 618, ch. 354, § 1.

Emergency. Effective June 18, 1945.

Tuberculosis control in counties of 200,000 or over, see art. 4437a.

CHAPTER FOUR A—SANITATION AND HEALTH PROTECTION [NEW]

Art.

1477—1. Minimum standards of sanitation and health protective measures.

Art. 4477—1. Minimum standards of sanitation and health protection measures

Definitions

Section 1. (a) The following terms wherever found in this Act, unless otherwise defined, shall be understood to mean:

(b) **APPROVED PRIVY:** Any unit for the disposal of human excreta constructed and maintained in conformity with the specifications of the State Department of Health.

(c) **COMMON CARRIER:** Any licensed firm, corporation or establishment which solicits and operates public freight or passenger transportation service. The term "Common Carrier" shall also include any vehicle employed in such transportation service.

(d) **COMMON DRINKING CUP:** Any receptacle used for serving water or other beverage to two or more persons in any public place or any establishment catering to the public; provided this term shall not apply to receptacles properly washed and sterilized after such service.

(e) **DRINKING WATER:** All water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleansing of any utensil or article used in the course of preparation or consumption of food or beverages for human beings. The term "Drinking Water" shall also include all water supplied for human consumption or used by any institution catering to the public.

(f) **HUMAN EXCRETA:** The urinary and bowel discharges of any human being.

(g) **NUISANCE:** Any object, place or condition which constitutes a possible and probable medium of transmission of disease to or between human beings or any other object, place or condition which may be specifically declared by this Act to be a nuisance.

(h) **PUBLIC HEALTH ENGINEER:** Any engineer who has been duly licensed to practice as a registered professional engineer and who is further versed in the sciences of water purification, sewage, treatment, and in the public health principles of conditioning the environment.

(i) **SANITARIAN:** Any trained worker who has a practical knowledge of sanitation as it pertains to disease control.

(j) **SANITARY:** Any condition of good order and cleanliness which precludes the probability of disease transmission.

(k) **SEPTIC TANK:** Any covered water-tight tank, designed for the treatment of sewage.

(l) **SEWERAGE PLANT OPERATOR:** Any person, trained in the collection, treatment, or disposal of sewage who has a practical working knowledge of the mechanics, maintenance and operating principles of the collection, treatment, and disposal of sewage.

(m) **SWIMMING POOL:** Any body of water maintained expressly for public recreational purposes, swimming and similar aquatic sports.

(n) **TOILET:** The hopper device for the deposit and discharge of human excreta into a water carriage system.

(o) **TOURIST COURT:** Any camping place or group of two or more mobile or permanent housing units operated as rental property for the use of transient trade or any or all trailer units housing human beings.

(p) **WATER PLANT OPERATOR:** Any person trained in the purification or distribution of a public water supply who has a practical working knowledge of the chemistry and bacteriology essential to the practical mechanics of water purification and who is capable of conducting and maintaining the purification processes in an efficient manner.

(q) **WATER SUPPLY:** Any source or reservoir of water distributed to and used for human consumption.

Nuisances

Sec. 2. (a) Any and all of the following conditions are hereby specifically declared to be nuisances dangerous to the public health;

(b) Any condition or place allowed to exist in populous areas which constitutes a breeding place for flies;

(c) Any spoiled or diseased meats intended for human consumption;

(d) Any restaurant, food market, bakery, or other place of business or any vehicle where food is prepared, packed, stored, transported, sold or served to the public which is not constantly maintained in a sanitary condition;

(e) Any place, condition or building controlled or operated by any governmental agency, state or local, which is not maintained in a sanitary condition;

(f) All sewage, human excreta, waste water, garbage, or other organic wastes deposited, stored, discharged or exposed in such a way as to be a potential instrument or medium in the transmission of disease to or between any person or persons;

(g) Any vehicle or container used in the transportation of garbage, human excreta, or other organic material which is defective and allows leakage or spilling of contents;

(h) Any collection of water in which mosquitoes are breeding within the limits of any city, town or village;

(i) Any condition which may be proven to injuriously affect the public health and which may directly or indirectly result from the operations of any bone boiling, fat rendering, tallow or soap works or other similar establishments;

(j) Any place or condition harboring rats in populous areas;

(k) The presence of ectoparasites (bedbugs, lice, mites, etcetera) suspected to be carriers of disease in any place where sleeping accommodations are offered to the public;

(l) The maintenance of any open surface privy or of any overflowing septic tank, the contents of either of which may be accessible to flies.

Abatement of Nuisances

Sec. 3. (a) Every person, possessing any place in or on which there is a nuisance shall, as soon as its presence comes to his knowledge, proceed at once and continue to abate the said nuisance.

(b) Every local health officer who receives information and proof of the existence of a nuisance within his jurisdiction shall issue a written notice to any person responsible for the said nuisance ordering the abatement of same. He shall at the same time send a copy of the said notice to the local city, county, or district attorney. Such notice shall specify the nature of the nuisance and shall designate a reasonable time within which such abatement shall be accomplished. In the event such notice is not complied with within the specified time, the local prosecuting attorney who received the copy of the original notice shall be so advised by the local health officer, and he shall immediately institute proceedings for the abatement thereof.

Garbage and Refuse

Sec. 4. (a) All premises occupied or used for residential, business or pleasure purposes shall be kept in a sanitary condition.

(b) No kitchen waste, laundry waste, or sewage shall be allowed to accumulate, discharge or flow into any public place, gutter, street, or highway.

(c) No waste products, offal, polluting material, spent chemicals, liquors, brines or other wastes of any kind shall be stored, deposited or disposed of in any manner as may cause the pollution of the surrounding land or the contamination of the well waters to the extent of endangering the public health.

(d) All persons, firms, corporations or municipalities using or permitting the use of any land as a public dump shall provide for the covering or incineration of all animal or vegetable matter deposited thereon and for the disposition of other waste materials and rubbish to the extent of eliminating any and all possibility that such materials and rubbish might constitute breeding places for insects, rodents or flies.

(e) No person shall permit any vacant or abandoned property owned or controlled by him to be or remain in such a condition as will afford the creation of a nuisance or other conditions prejudicial to the public health.

Disposal of Human Excreta

Sec. 5. (a) All human excreta in populous areas must be disposed of through properly managed sewers, treatment tanks, chemical toilets, approved privies, or by other methods approved by the State Department of Health. The disposal system shall be sufficient to prevent the pollution of surface soil, the contamination of any drinking water supply, the infection of any flies, cockroaches, or the creation of any other nuisance.

(b) All effluent from septic tanks hereafter constructed shall be disposed of through a subsurface drainage field designed in accordance with good public health engineering practice or any other method which does not create a nuisance.

(c) No privy shall hereafter be constructed within seventy-five (75') feet of any drinking water well or of a human habitation other than to which it is appurtenant without approval by the local or State Health Officer, and no privy shall be erected or maintained over any abandoned well or over any stream.

(d) The superstructure and floor surrounding the seat riser and hopper device of every approved privy shall be kept in a sanitary condition at all times, and shall have adequate lighting and ventilation.

(e) All material and human excreta removed from any privy vault or from any other place shall be handled so as not to create a nuisance. Such matter shall not be deposited within three hundred (300') feet of any highway unless buried or otherwise treated in accordance with the instructions of the local or State Health Officer.

Toilet Facilities

Sec. 6. (a) All operators, managers, or superintendents of any public buildings, school houses, theaters, filling stations, tourist courts, bus stations and taverns shall provide and maintain sanitary toilet accommodations.

Unincorporated Villages

Sec. 7. (a) Every person in possession of or owning any properties used for human habitation within any unincorporated village which shall hereafter come within the provisions of Article 4434-35 of the Revised Civil Statutes of Texas, 1925, shall:

(b) Install, remodel or maintain an approved privy or other approved type of disposal unit;

(c) Protect all wells providing drinking water from contamination;

(d) Dispose of all garbage and other waste matter in a sanitary manner;

(e) Abate all mosquito and fly breeding areas or mediums;

(f) Exterminate and destroy all rodents by poisoning, trapping or other appropriate means.

Public Buildings

Sec. 8. Any and all public buildings hereafter constructed shall have incorporated therein all such heating, ventilation, plumbing, screening, and rat-proofing features as may be necessary to properly protect the health and safety of the public.

Ice Plants

Sec. 9. (a) No person except officers, employees, or others whose duties require such shall be permitted to go upon the platform covering the tanks in which ice is frozen in ice factories. All employees whose services are required on tanks shall be provided with clean shoes or boots which shall be used for no other purpose.

(b) No ice contaminated with sand, dirt, cinders, lint, or any other foreign substances shall be sold or offered for sale for human consumption.

(c) All water used in the manufacturing of ice shall be from an approved source and be of a safe quality.

(d) Every ice plant operator shall provide sanitary handwashing and toilet facilities for the use of all employees thereof.

Drinking Water

Sec. 10. (a) All drinking water for public use shall be free from deleterious matter and shall comply with the standards established therefor by the State Department of Health or the United States Public Health Service.

(b) The use of the common drinking cup is hereby prohibited in this state. No drinking water shall be served except in sanitary containers or through other sanitary mediums.

Protection of Public Water Supplies

Sec. 11. (a) No district, municipality, firm, corporation, or individual shall furnish to the public any drinking water for which any

charge is made, unless the production, processing, treatment, and distribution is at all times under the supervision of a competent water works operator holding a valid certificate of competency issued under direction of the Texas State Department of Health.

(b) No owner, agent, manager, or operator or other person having charge of any water works supplying water for public or private use shall knowingly furnish to any person any contaminated drinking water or permit the appliances thereof to become insanitary.

(c) The owner or manager of every water supply system furnishing drinking water to 25,000 or more persons shall have the water tested at least once daily for the determination of its sanitary quality and shall furnish the State Department of Health with monthly reports thereof. The owner or manager of any water plant supplying drinking water to less than 25,000 persons, according to the latest Federal Census and such revised Federal Census as may hereafter be taken and established, or by other population-determining methods in all such cases where Federal Census are not taken, shall submit to the State Department of Health at least four (4) specimens of water taken from the supply for the purpose of bacteriological analysis during each monthly period of the operation of such service.

(d) No physical connection between the distribution system of a public drinking water supply and that of any other water supply shall be permitted unless such other water is of a safe sanitary quality and the interconnection is approved by the State Department of Health. No water connection from any public drinking water supply shall be made to any sprinkling, condensing, cooling, plumbing, or any other system unless the said connection is of such a design as will insure against any backflow or siphonage of sewage or contaminated water from said system into the drinking water supply. Upon discovery of any condition contrary to these provisions, written notice shall be given to the owner or agent maintaining such condition by the local health officer, and such owner or agent shall make such corrections as are necessary to eliminate the condition complained of.

(e) No part of sub-sections (a), (b), and (c) of Section 11 shall apply to the production, distribution or sale of raw, untreated surface water.

Approved Plans Required for Public Water Supplies and Sewerage Systems

Sec. 12. (a) Every person, firm, corporation, public or private, contemplating the establishment of any drinking water supply or sewage disposal system for public use shall, previous to construction thereof, submit completed plans and specifications therefor to the State Department of Health and the said Department shall approve same; provided said plans conform to the water safety and stream pollution laws of this state. The said water supply or sewage disposal system shall be established only after approval has been given by the State Department of Health.

(b) Any governing body of any municipality or any other agency supplying drinking water or sewage disposal service to the public desiring to make any material or major changes in any water or sewerage system that may affect the sanitary features of such utility shall, before making such changes, give written notice of such intentions to the State Department of Health.

(c) No water supply owner, manager, operator or agent thereof shall advertise or announce any water supply as being of any quality other than is disclosed by the latest rating by the State Department of Health. It shall be the duty of the State Department of Health to assemble and tabulate all necessary data relative to public drinking water supplies,

which shall form the basis of an official comparative rating of all public drinking water supply systems, at least once each year and as often during the year as conditions may demand or justify. All supply systems attaining an approved rating shall have the privilege of erecting signs of a design approved by the State Department of Health on highways approaching the city of such supply; and these signs shall be immediately removed upon due notice from the State Department of Health in the event the supply system fails to continue to meet the specified standards.

Sanitary Defects

Sec. 13. (a) All sanitary defects existent at public drinking water plants which obtain their supply from underground sources shall be immediately corrected.

(b) No public drinking water supply system furnishing drinking water from underground sources to the public shall be established in any place subject to possible pollution by any flood waters, unless adequately protected against flooding.

(c) All suction wells or suction pipes, used in any public drinking water supply system shall be constantly protected by practical safeguards against surface or sub-surface pollution.

(d) No livestock shall be permitted to enter or remain within the wellhouse enclosure of a public drinking water supply system.

(e) All public drinking water distribution lines shall be constructed of impervious material with tight joints, a reasonably safe distance from sewer lines.

(f) No water from any surface public drinking water supply shall be made accessible or delivered to any consumer for drinking purposes unless it has first received treatment essential to rendering it safe for human consumption. All treatment plants including aeration, coagulation, mixing, settling filtration, and chlorinating units shall be of such size and type as may be prescribed by good public health engineering practices.

(g) Clear water reservoirs shall be covered and be of such type and construction as will prevent the entrance of dust, insects, and surface seepage.

Impounded Water

Sec. 14. All persons, firms, corporations, and governmental agencies that impound any body of water for public use shall cooperate with the state and local departments of health in the control of disease bearing mosquitoes on the impounded area.

Swimming Pools and Bath Houses

Sec. 15. (a) All owners, managers, operators, and other attendants in charge of any public swimming pool shall maintain all such pools in a sanitary condition. The bacterial content of the water in any public swimming pool shall not be allowed to exceed safe limits as prescribed by established standards of the State Department of Health. Residual chlorine from 0.2 to 0.5 parts per million units of water shall be maintained in every public swimming pool throughout the period of their use.

(b) No water in any swimming pool open for the public shall ever be permitted to show an acid reaction to a standard pH test.

(c) Any and all parts of any public bath house and the surroundings thereto shall at all times be kept in a sanitary condition.

(d) No comb or hairbrush used by two or more persons shall be permitted or distributed in any bath house of a public swimming pool.

(e) Facilities shall be provided in all swimming pools for adequate protection of bathers against sputum contamination.

(f) All persons known or suspected of being infected with any transmissible condition of a communicable disease shall be excluded from the pool.

(g) The construction and appliances of all public swimming pools shall be such as to reduce to a practical minimum any possibility of drowning or injury of bathers. All swimming pools hereafter constructed shall be in conformity with good public health engineering practices.

(h) All bathing suits and towels furnished to bathers by any person or persons shall be thoroughly washed with soap and hot water and thoroughly rinsed and dried after each use.

(i) All dressing rooms of any swimming pool shall contain shower bath facilities.

(j) The operator or manager of any public swimming pool shall provide adequate and proper approved facilities for the disposal of human excreta by the bathers thereof.

School Houses and Grounds

Sec. 16. (a) Every school building shall be located on grounds that are well drained and maintained in a sanitary condition.

(b) Every school building shall be properly ventilated and provided with an adequate supply of drinking water and approved sewage disposal system, hand-washing facilities, a heating system, and lighting facilities, all of which shall conform with established standards of good public health engineering practices.

(c) All public school lunch rooms maintained and operated shall comply with the State Food and Drug Regulations.

(d) All public school buildings and appurtenances thereto shall be maintained in a sanitary manner.

(e) All building custodians and janitors employed on a full-time basis shall be versed in the fundamentals of safety and school sanitation.

Tourist Courts, Hotels, Inns and Rooming Houses

Sec. 17. (a) Every agency, person, firm, or corporation operating any tourist court and hotels, inns and rooming houses in this state shall provide a safe and ample water supply for the general conduct thereof and shall submit samples of said water at least once each year before the month of May to the State Department of Health for bacteriological analysis.

(b) Every tourist court and hotels, inns and rooming houses shall be equipped with an approved system of sewage disposal maintained in a sanitary condition.

(c) All owners or operators of any tourist court and hotels, inns and rooming houses shall provide every practical facility essential to keeping the entire area of each of said courts in a sanitary condition.

(d) Every owner or operator of a tourist court and hotels, inns and rooming houses providing gas stoves for the heating of any unit thereof shall determine that such stoves are properly installed and maintained in properly ventilated rooms.

(e) All owners, operators, or managers of every tourist court and hotels, inns and rooming houses shall maintain all sanitary appliances situated therein in good repair.

(f) All food offered for sale at any tourist court and hotels, inns and rooming houses shall be adequately protected from flies, dust, vermin, spoilage, and shall be kept in a sanitary condition at all times.

(g) No owner, manager or agent shall rent or furnish any unit of any tourist court and hotels, inns and rooming houses to any person succeed.

ing a previous occupant without having first thoroughly cleaned the said unit, and having provided clean and sanitary sheets, towels, and pillow cases therefor.

(h) Every tourist court and hotels, inns and rooming houses failing to conform to any provision of this Act is hereby declared to constitute a nuisance.

(i) All owners, operators, or managers of any hotel, inn, or rooming house shall maintain all such premises in a sanitary condition.

Fair Grounds, Public Parks and Amusement Grounds

Sec. 18. Every fair ground, public park or amusement center of any kind shall be maintained in a sanitary condition and any and all food and beverages which may be sold in any part of such place shall be adequately protected against flies, dust, vermin, spoilage, and shall be kept in a sanitary condition.

Industrial Establishments

Sec. 19. (a) No person, firm, corporation or other employer shall use, or permit to be used in the conduct of any business, manufacturing establishments or other place of employment, any process, material, or condition known to have any possible adverse effect on the health of any person or persons employed therein unless arrangements have been made to maintain the occupational environment to the extent that such injury will not result. Every industrial establishment shall be continually maintained in a sanitary condition.

(b) The Texas State Department of Health shall make available to the citizens of Texas current information concerning minimum allowable concentrations of toxic gases and such environmental standards as may pertain to the health and safety of the employees of industrial establishments in this state.

(c) The Texas State Department of Health shall make health and sanitary surveys and studies of industrial establishments including such special items as water supplies and distribution, waste disposal, adverse conditions caused by processes which may be responsible for or cause ill health of industrial workers. Such Texas State Department of Health shall bring to the attention of each surveyed establishment a summary of the studies and findings resultant thereof, together with any recommendations which may be deemed necessary for the adequate protection of the health, safety and well-being of the workers.

Sewage

Sec. 20. (a) The management of every public sewerage treatment plant shall employ a sewerage plant operator holding a valid certificate of competency issued under the direction of the Texas State Department of Health. Such sewerage plant operator shall be in charge of said plant. This certificate shall not apply to sewerage treatment plants using septic tanks and subsoil treatment.

(b) The Texas State Department of Health shall take all necessary procedures essential to the protection of any spring, well, pond, lake, reservoir, or other streams in Texas, from any condition or pollution resulting from sewage, that may endanger the public health, and shall have full authority to enforce all the laws of this state relating thereto.

Typhus and Pest Control

Sec. 21. (a) The word "place" as used in this Section shall be construed as meaning any enclosed structure frequented or inhabited by or operated for public trade.

(b) Every person, firm or corporation possessing any place that is infested with rodents shall, as soon as each such condition comes to their knowledge, proceed and continue in good faith to endeavor to exterminate and destroy all such rodents by the process of poisoning, trapping, fumigation or any other appropriate means and shall immediately proceed to provide every possible practical means of rat stoppage in any such place.

(c) All new public buildings which may hereafter be constructed shall have rat proofing features incorporated therein.

(d) The State Health Officer is directed to promote rodent control programs in all rat infested areas and in localities where typhus fever has appeared.

(e) It shall hereafter be unlawful for any person, firm or corporation to engage in commercial pest control activities in any structure used as a domicile, or otherwise used by human beings, to employ or distribute lethal gases, or other poisons used for the purpose of exterminating pests, unless such exterminating agency conforms to commonly accepted standards for safety in pest control.

Common Carriers

Sec. 22. (a) All persons, firms or corporations managing or operating bus lines or airlines in the State of Texas, or any person, firm or corporation operating any coastwise vessel along the shores of the State of Texas shall maintain sanitary conditions in all of their equipment and at all terminals or docking points.

(b) All drinking water provided by common carriers or their agents, shall be taken only from supplies certified as meeting the standards established by the Texas State Department of Health. All such water shall be kept and dispensed in a sanitary manner.

(c) Every place where drinking water is placed aboard any vehicle operated as a common carrier shall be known as a common carrier watering point. Every common carrier's watering point shall meet all required standards of sanitation, and water handling practices as may be established for such purposes by the State Board of Health. All common carrier watering points meeting such standards shall be so certified by the State Department of Health.

(d) In the event any sanitary defects exist at the watering point, the Texas State Department of Health shall issue or cause to be issued a supplemental certification showing that the watering point is only provisionally approved; and if said defects are suffered to continue after a reasonable time for the correction of same has expired, then the State Health Department shall notify or cause to be notified the common carriers not to receive drinking water at the watering point involved.

Authority of Home Rule Cities not affected

Sec. 23. All provisions of this Act are hereby declared to constitute minimum requirements of sanitation and health protection within the State of Texas and shall in no way affect the authority of Home Rule Cities to enact more stringent ordinances pertaining to the matters herein referred to, and shall in no way affect the authority of Home Rule Cities to enact ordinances as granted to them under Article XI, Section V of the State Constitution, and Articles 1175-76 of the Revised Civil Statutes of Texas of 1925.

Penalty

Sec. 24. Any person, firm or corporation who shall violate any of the provisions of any Section or sub-division of this Act, shall be fined

not less than Ten Dollars (\$10.00) and not more than Two Hundred Dollars (\$200.00), and each day of such violation shall constitute a separate offense. The penalties of this Act shall not apply where a person or persons have exercised due diligence, and have violated the same without any intent. Acts 1945, 49th Leg., p. 234, ch. 178.

Effective 90 days after June 5, 1945, date of adjournment.

Section 25 of the Act of 1945 repealed all conflicting laws or parts of laws.

Section 25A read as follows:

"Sec. 25A. In the event any sentence, clause, section, or word of this Act is declared invalid by any court of competent jurisdiction, it is hereby declared to be the legislative intent of this 49th Legislature that the remaining and all other portions of this Act shall not be affected thereby, but shall remain in full force and effect in all respects excepting such word or cause as may be so declared invalid."

Title of Act:

An Act to promote the public health; providing for methods of control and prevention of preventable diseases; defining

certain terms, words, and phrases; providing for the abatement of nuisances; establishing minimum standards and requirements of sanitation and health protective measures and procedures to be complied with by all governmental units, residents, firms, associations, corporations and all other persons within this state; establishing duties of and granting administrative authority to public health and enforcement agencies; repealing all laws and parts of laws in conflict therewith; providing that should any word, sentence, clause, or Section be declared invalid by any court of competent jurisdiction the remaining Section or portion of the Act shall not be thereby affected; providing a penalty; and declaring an emergency. Acts 1945, 49th Leg., p. 234, ch. 178.

CHAPTER SIX A—CHIROPRACTORS [NEW]

Arts. 4512a—1 to 4512a—18. Unconstitutional

These articles, derived from acts 1943, 48th Leg., p. 627, ch. 359, regulating the practice of chiropractic were unconstitutional as being violative of Const. art. 16, § 31, as according a preference to chiropractic system of healing art by failure to require same educational qualifications of chiropractors as are required of medical practitioners by Medical Practice Act, or to

require chiropractors to pass satisfactory examinations on same subjects as all others similarly situated, and prohibiting licensed medical practitioners from employing chiropractic system of treating diseases and disorders without passing examination required by Chiropractic Act. See *Ex parte Halsted*, 182 S.W.2d 479.

CHAPTER NINE—DENTISTRY

Art. 4545. Qualifications of applicants

Each applicant for a license to practice dentistry in this state shall be not less than twenty-one (21) years of age, a citizen of the United States of America, and shall present a diploma from a reputable dental college and evidence of good moral character. A dental college shall be held reputable whose entrance requirements and course of instruction are as high as those adopted by the better class of dental colleges of the United States, and whose course of instruction shall be the equivalent of not less than four (4) terms of eight (8) months each. As amended Acts 1945, 49th Leg., p. 462, ch. 292, § 1.

Emergency. Effective May 31, 1945.

CHAPTER TEN—OPTOMETRY

Art. 4557. Examination; application; schools considered reputable; registration; exception of persons in armed service

Every person desiring to practice optometry in the State of Texas shall be required to pass the examination given by the Texas State Board

of Examiners in Optometry. The applicant shall make application, furnishing to the Secretary of the Board, on forms to be furnished by the Board, satisfactory sworn evidence that he has attained the age of twenty-one (21) years, is of good moral character, is a citizen of the United States, and has at least graduated from a first grade high school, or has a preliminary education equivalent to permit him to matriculate in the University of Texas, and that he has attended and graduated from a reputable University or College of Optometry which meets with the requirements of the Board, and such other information as the Board may deem necessary for the enforcement of this Act. A University or School of Optometry is reputable whose entrance requirements and course of instruction are as high as those adopted by the better class of Universities and Schools of Optometry and whose course of instruction shall be equivalent to not less than four terms of eight months each, and approved by the Board. Provided that no provision of this Section shall apply to any qualified person who in good faith began the study of optometry and so filed intention with the Texas State Board of Examiners in Optometry under the provisions of Title 71, Chapter 10 of the Revised Civil Statutes of Texas, 1925, as amended, prior to the effective date of this Act. Any person failing to register with the Secretary of the Board within thirty (30) days after the effective date of this Act under proper rules of the Board and other related facts as the Board may require shall be deemed to have waived all rights under the provisions of Title 71, Chapter 10, Article 4557, Revised Civil Statutes of Texas, 1925, as amended. Provided that any person who in good faith began the study of optometry and so filed his intention with the Texas State Board of Examiners in Optometry under the provisions of Title 71, Chapter 10, Revised Civil Statutes of Texas, as amended, prior to the effective date of this Act, and who has been engaged in Federal service or in active duty with the Army of the United States, the United States Navy, the United States Marine Corps, the United States Coast Guard, the United States Maritime Service, or the State Militia called into service or training or education under the supervision of the United States preliminary to induction into the military service, may register with the State Board of Examiners in Optometry within six (6) months after termination of his said service, training or education, other than by dishonorable discharge, provided he furnishes the State Board of Examiners in Optometry with affidavit to the effect that he has been so engaged, and that his service, training or education has been so terminated, and complete his unfinished work as shown by the records of the Board. Provided that any person who desires to study Optometry, and who has been engaged in Federal service or in active duty with the Army of the United States, the United States Navy, the United States Marine Corps, the United States Coast Guard, the United States Maritime Service, or the State Militia called into service or training or education under the supervision of the United States preliminary to induction into the Military service shall register with the State Board of Examiners in Optometry within six (6) months after termination of his said service, training or education, other than by dishonorable discharge, provided he furnishes the State Board of Examiners in Optometry with affidavit to the effect that he has been so engaged, and that his service, training or education has been so terminated. As amended Acts 1945, 49th Leg., p. 513, ch. 313, § 1.

Emergency. Effective June 2, 1945.

Section 3 of the Act of 1945 repealed all conflicting laws or parts of laws.

Section 4 of the Act of 1945 read as follows:

"Sec. 5. If any Article, Section, subsection, clause, sentence or phrase of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of any remaining portion of

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

Art. 4565. Fees and expenses

The Board shall charge a fee of Twenty-five Dollars (\$25) for examining an applicant for license, which fee must accompany the application. If the applicant who, because of failure to pass the examination, be refused a license, he shall be permitted to take a second examination without additional fee, provided the second examination is taken within a period of one (1) year. The fee for issuing a license shall be Ten Dollars (\$10), to be paid to the Secretary of the Board. If anyone successfully passing the examination and meeting the requirements of the Board has not paid the fee for issuance of a license within ninety (90) days after having been notified by registered mail at the address given on his examination papers, or at the time of the examination that he is eligible for same, such person shall by his own act have waived his right to obtain his license, and the Board may at its discretion refuse to issue such license until such person has taken and successfully passed another examination.

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 shall be applied by Order of the Board to compensate members of said Board. Said compensation to each member of the Board shall not exceed Ten Dollars (\$10) per day, or Three Hundred Dollars (\$300) per year, exclusive of the necessary expenses in performance of their duties; except the Secretary of the Board shall receive compensation to be set by the Board, exclusive of necessary expenses in performance of his duties.

The Texas State Board of Examiners in Optometry shall defray all expenses under this law from fees provided in this Act, and no appropriation shall ever be made from the State Treasury for any expenditure made necessary by this law. As amended Acts 1945, 49th Leg., p. 513, ch. 313, § 2.

Emergency. Effective June 2, 1945.

Art. 4565—a. Annual renewal fee—Certificate—Suspension or cancellation of license for nonpayment—Lost or destroyed license—Renewal by persons in armed service

On or before the 1st day of January of each year every licensed optometrist in this State shall pay to the Secretary-Treasurer of the Texas State Board of Examiners in Optometry an annual renewal fee of Ten Dollars (\$10) for the renewal of his license to practice optometry for the current year. On receipt of said renewal fee, the Board shall issue an annual renewal certificate bearing the number of the license, the year for which renewed and other information for the records of the Board which said Board may deem necessary for the proper enforcement of this Act. When an optometrist shall have failed to pay his annual renewal fee by March 1st, it shall be the duty of the Board to notify such optometrist at his last known address by registered mail that said annual renewal fee is due and unpaid. Thirty (30) days after the date of mailing such notice, it shall be the duty of the Board under this Act to suspend the license for nonpayment of annual renewal fee and to notify such optometrist of such suspension by registered letter addressed to his last known address. The Board shall notify the county clerk of the County in which such license may have been recorded of such sus-

pension and such clerk, upon receipt of notice from said Board shall enter upon the optometry register of such County the fact that such license has been suspended for nonpayment of annual renewal fee and shall notify the Board in writing that such entry has been made. Provided, that if said annual renewal fee is not paid within sixty (60) days from the date of notice of suspension, and unless good cause is shown why such fee has not or cannot be paid, the Board shall then cancel such license. The Board shall notify the County clerk of the County in which such license may have been recorded of such cancellation, and such clerk, upon receipt of such notice from said Board, shall enter upon the optometry register of such County the fact that such license has been cancelled and is void for nonpayment of annual renewal fee and shall notify the Board in writing that such entry has been made. Practicing optometry without an annual renewal certificate for the current year as provided herein, shall have the same force and effect and be subject to all penalties of practicing optometry without a license. After the Board has declared a license void as provided for in this Article, the Board may thereafter, in its discretion, refuse to issue a new license until such optometrist whose license has been declared void for nonpayment of annual renewal fee, has passed the regular examination for license as provided for by this Act.

If any license issued under this law shall be lost or destroyed, the holder of said license may present his application to the Board for a duplicate license, together with his affidavit of such loss or destruction, and that he is the same person to whom said license was issued, and other information regarding its loss as is required by the Board, and shall upon the payment of a fee of Two Dollars and fifty cents (\$2.50) be granted a license under this Law.

Any licensed optometrist whose renewal certificate has expired while he has been engaged in Federal service or in active duty with the Army of the United States, the United States Navy, the United States Marine Corps, the United States Coast Guard, or the United States Maritime Service, or the State Militia called into service or training, or education under the supervision of the United States, preliminary to induction into the military service, may have his renewal certificate reinstated without paying any lapsed renewal fee or registration fee, or without passing an examination, if within one (1) year after termination of said service, training or education, other than by dishonorable discharge, he furnishes the State Board of Examiners in Optometry with affidavit to the effect that he has been so engaged and that his service, training or education has been so terminated. As amended Acts 1945, 49th Leg., p. 513, ch. 313, § 3.

Emergency. Effective June 2, 1945.

TITLE 73—HOTELS AND BOARDING HOUSES

Art.

4596a. Hotels, tourist cabins, inns, etc., admittance of blind persons accompanied by "Seeing Eye" dogs [New].

Art. 4596a. Hotels, tourist cabins, inns, etc., admittance of blind persons accompanied by "Seeing Eye" dogs

Section 1. Blind persons and their "Seeing-Eye" dogs shall not be denied admittance to any hotel, tourist cabin, public inn, public cafe, public elevator, or any other similar place within the State of Texas, because of such "Seeing-Eye" dogs; and such blind persons shall not be required to pay any additional charges for their "Seeing-Eye" dogs; provided said "Seeing-Eye" dogs shall be securely muzzled by their owners.

Sec. 2. Any person, or persons, firm, association, or corporation, or the agent of any person, firm, association, or corporation, who shall violate the provisions of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars (\$50), nor more than Two Hundred Dollars (\$200). Acts 1945, 49th Leg., p. 487, ch. 303.

Emergency. Effective May 30, 1945.

Transportation and admittance to hotels etc., see, also, art. 889a.

Title of Act:

An Act fixing the maximum rate of tax to be levied for school purposes in school districts of Texas to an amount not to exceed One Dollar and Fifty Cents (\$1.50) on the one hundred dollars of property

valuation; providing for a vote of the people before such tax may be levied; repealing Article 2784 of Title 49, Chapter 13, of the Revised Civil Statutes of Texas, 1925; repealing all laws and parts of laws in conflict in so far as they are in conflict, except House Bill No. 516, Acts, Regular Session, Forty-ninth Legislature; and declaring an emergency. Acts 1945, 49th Leg., p. 487, ch. 303.

TITLE 78—INSURANCE

CHAPTER ONE—COMMISSIONER OF INSURANCE

Art.

4698a. Board of Insurance Commissioners;
control over casualty, fidelity,

surety and guaranty insurance;
licensing and rating organizations
[New].

Art. 4698a. Board of Insurance Commissioners; control over casualty, fidelity, surety and guaranty insurance; licensing and rating organizations

Section 1. Scope of Act:

This Act applies to every insurance company, corporation, inter-insurance exchange, mutual, reciprocal, association, Lloyds or other organization or insurer writing any of the characters of insurance business herein set forth, hereinafter called "Insurer"; provided that nothing in this entire Act shall ever be construed to apply to any county mutual insurance company or association, as exempted under Senate Bill No. 121, Acts of the 45th Legislature, 1937.¹

¹ Article 4860a—20.

This Act applies to the writing of casualty insurance and the writing of fidelity, surety, and guaranty bonds, on risks or operations in this state except as herein stated.

This Act does not apply to the writing of motor vehicle, life, health, accident, reinsurance, aircraft, fraternal benefit, fire, lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lockout, water or other fluid or substance, resulting from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes or other conduits or containers, or resulting from casual water entering through leaks or openings in buildings or by seepage through building walls, including insurance against accidental injury of such sprinklers, pumps, fire apparatus, conduits or containers, workmen's compensation, inland marine, ocean marine, marine, or title insurance; nor does this Act apply to the writing of explosion insurance, except insurance against loss from injury to person or property which results accidentally from steam boilers, heaters or pressure vessels, electrical devices, engines and all machinery and appliances used in connection therewith or operated thereby.

This Act shall not be construed as limiting in any manner the types or classes of insurance which may be written by the several types of insurers under appropriate statutes or their charters or permits.

The regulatory power herein conferred is vested in the "Board of Insurance Commissioners of the State of Texas" hereinafter referred to as the "Board". Within the Board, the Casualty Insurance Commissioner shall have primary supervision of regulation herein provided, subject however, to the final authority of the entire Board.

Making of Rates

Sec. 2. All rates shall be made in accordance with the following provisions:

1. Due consideration shall be given to the past and prospective loss experience within and outside the state, to catastrophe hazards, if any, to expenses of operation, to a reasonable margin for profit and contingencies, and to all other relevant factors, within and outside the state.

2. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in such risks on the basis of any or all of the factors mentioned in the preceding paragraph.

3. Rates shall be reasonable, adequate, not unfairly discriminatory, and non-confiscatory as to any class of insurer.

Filing of Rates and Rating Information; Approval

Sec. 3. (a) Every insurer shall file with the Board every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the policies and endorsement forms proposed to be used, and the information upon which the insurer supports the filing.

The filings to be made in the first instance hereunder shall be made as and when, and in the manner the Board shall require after the effective date hereof, and after not less than ninety days' written notice to the insurers affected, but in no case later than January 1, 1948.

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the Board to accept such filings on its behalf.

(c) Any filing made pursuant to this Section shall be approved by the Board unless it finds that such filing does not meet the requirements of this Act. As soon as reasonably possible after the filing has been made the Board shall in writing approve or disapprove the same; provided, that any filing shall be deemed approved unless disapproved within thirty days; provided, that the Board may by official order postpone action for such further time not exceeding thirty days as it deems necessary for proper consideration.

(d) Any filing for which there is no approved rate shall be deemed approved from the date of filing to the date of such formal approval or disapproval.

(e) If at any time the Board finds that a filing so approved no longer meets the requirements of this Act, it may, after a hearing held on not less than twenty days' notice specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order withdrawing its approval thereof. Said order shall specify in what respects the Board finds that such filing no longer meets the requirements of this Act and shall be effective not less than thirty days after its issuance. Copies of such order shall be sent to every such insurer and rating organization.

(f) Any person or organization aggrieved by the action of the Board with respect to any filing may, within thirty days after such action, make written request to the Board for a hearing thereon. The Board shall hear such aggrieved party within thirty days after receipt of such request and shall give not less than ten days' written notice of the time and place

of the hearing to the insurer or rating organization which made the filing and to any other aggrieved party. Within thirty days after such hearing the Board shall affirm, reverse or modify its previous action. Pending such hearing and decision thereon the Board may suspend or postpone the effective date of its previous action.

(g) Until the insurer shall make filings, as provided herein, and the same shall be approved, or become effective under the terms hereof, and the Board shall have approved other or different classifications, rules, rates or rating plans, policy forms or endorsements, under this Act, the rates, rules, classifications, rating plans and policy forms now in use by the insurers now writing the character of insurance herein defined in this state shall remain in effect.

Rating Organizations

Sec. 4. (a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside the state, may make application for license as a rating organization for such kinds of insurance or subdivisions thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by laws and rules governing the conduct of its business; (2) a list of its members and subscribers; (3) the name and address of a resident of the state upon whom notices or orders of the Board affecting such rating organizations may be served and (4) a statement of its qualification as a rating organization. If the Board finds that the applicant is qualified, it shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the Board within sixty days of the date of its filing with it. Licenses issued pursuant to this Section shall remain in effect until suspended or revoked by the Board. The fee for said license shall be Twenty-five Dollars (\$25.00).

A rating organization shall not be granted a license as to any class of insurance unless and until two or more insurers have designated it to act for them as to such class of insurance in the manner prescribed herein.

(b) Each rating organization shall, subject to reasonable rules and regulations, permit any insurer, not a member, to become a subscriber to its rating services, and shall furnish such services without discrimination to its members and subscribers. The refusal of any rating organization to admit an insurer as a subscriber shall, at the request of such insurer, be reviewed by the Board at a hearing held upon at least ten days' written notice to such rating organization and such insurer. Every rating organization shall notify the Board promptly of every change in the list of its members and subscribers.

(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends to policyholders.

(d) The Board shall, at least once in five years, make or cause to be made an examination of each rating organization licensed in this state. The reasonable costs of such examination shall be paid by the rating organization examined upon presentation to it of a detailed account of such cost. The officers, managers, agents and employees of such rating organization may be examined under oath and shall exhibit all books, records, accounts, documents or agreements governing its method of operation. The Board may waive such examination upon proof that such rating organization has, within a reasonably recent period, been ex-

amined by the insurance supervisory official of another state, pursuant to the laws of such state, and upon the filing with the Board of a copy of the report of such examination.

Appeal by Minority

Sec. 5. Any member of or subscriber to a rating organization may appeal to the Board from the decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization; and the Board shall, after a hearing held on not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the decision of such rating organization or directing it to give further consideration to such proposal.

Information to be Furnished Insureds; Hearings and Appeals of Insureds

Sec. 6. Every insurer which files its own rates and every rating organization shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charges as it may make, furnish to any person then or thereafter affected by such rate or any modification thereof properly made, or to the authorized representative of such person, all information pertinent thereto.

Every insurer which files its own rates and every rating organization shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. Any party affected by the action of such rating organization or such insurer on such request may, within ten days after written notice of such action, appeal to the Board.

Rate Administration

Sec. 7. (a) Recording and Reporting of Loss Experience and other data.

The Board shall, after due consideration, promulgate reasonable rules and statistical plans, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss experience and such other data as may be required, in order that the total loss and expense experience of all insurers may be made available at least biennially in such form and detail as may be necessary to aid in determining whether rating plans comply with the standards set forth in Section 2. In promulgating such rules and plans, the Board shall have due regard for the rating plans approved by it, and in order that such rules and plans may be as uniform as is practicable, to the rules and to the form of the plans used in other states. The Board may designate one or more rating organizations or other agencies to gather and compile such experience.

(b) Interchange of Rating Plan Data.

Reasonable rules and plans may be promulgated by the Board after due consideration, requiring the interchange of loss experience necessary for the application of rating plans.

(c) Consultation with other States.

In order to further uniform administration of rating laws, the Board and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult and cooperate with them with respect to rate-making and the application of rating systems.

(d) Rules and Regulations.

The Board may make reasonable rules and regulations necessary to effect the purposes of this Act.

Rebates Prohibited

Sec. 8. No insurer or employee thereof, and no broker or agent shall knowingly issue any policy of insurance nor charge, demand or receive a premium thereon except in accordance with the applicable filing which has been approved by the Board. No insurer or employee thereof, and no broker or agent shall pay, allow or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in such applicable filing. No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatements, or reduction of premium, or any special favor or advantage or valuable consideration or inducement. Nothing in this Section, however, shall be construed to prohibit an insurer from sharing its profits after the same have been earned with its policyholders under and in accordance with an agreement as to such profit sharing contained in its policy contract. Any profit sharing under any policy with insured shall be uniform as between such insured, and shall consist only and solely of the equitable distribution under and in accordance with the terms of the policy of earnings between such insured, and no such insurer shall discriminate in any distribution of profits between insured of a class, and no classes for such distribution shall be made or established except on the approval of the Board. No part of any profit shall be distributed to any insured under any such policy until the expiration of the policy contract, provided no distribution of profits or dividends to insured shall take effect or be paid until the same shall have been approved by the Board; and provided further, that no such distribution shall be approved until adequate reserves shall have been provided, such reserves to be computed on the same basis for all classes of insurers operating under this Act. Any violation of the terms of this Section shall constitute unjust discrimination and shall constitute rebating, and shall be sufficient grounds for the revocation of the permit of the insurer or of the license of the agent being guilty of such unjust discrimination and rebating; provided further, that nothing in this Act shall be construed to prohibit the modification of rates by any rating plan approved by the Board as hereinbefore provided.

As used in this Section the word "insurance" includes suretyship, and the word "policy" includes bond.

False or Misleading Information

Sec. 9. No person or organization shall knowingly give false or misleading information to the Board, to any insurer, or to any rating organization, which will in any manner affect the proper determination of rates or premiums.

Penalties

Sec. 10. The Board may suspend the license of any rating organization or insurer which fails to comply with an order of the Board within the time limited by such order, or any extension thereof which the Board

may grant. The Board shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or, if an appeal has been taken, until such order has been affirmed. The Board may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by it, unless it modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

No license shall be suspended except upon a written order of the Board, stating its findings, made after a hearing held upon not less than ten days' notice to such person or organization specifying the alleged violation.

Judicial Review

Sec. 11. Any order or decision of the Board shall be subject to review, which shall be on the basis of the record of the proceedings before the Board and shall not be limited to questions of law, by direct action in the District Court of Travis County, instituted by any party aggrieved by any action taken under this Act.

Pending final disposition of any proceedings which attack the correctness of a rate, any insurer affected by such order may continue to charge the rate which obtained prior to such order of decrease or may charge the rate resulting from such order of increase, on condition that the difference in the premiums be deposited in a special account by said insurer, to be held in trust by said insurer, and to be retained by said insurer or paid to the holders of policies issued after the order of the Board, as the court may determine.

In all other cases, the court shall determine whether the filing of the appeal shall operate as a stay. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the Board in whole or in part.

Maintenance Tax

Sec. 12. The State of Texas shall assess and collect not exceeding an additional two-fifths of one per cent of the gross premiums on all classes of insurance covered by this Act, of all insurers writing such insurance in this state, according to the reports made to the Board of Insurance Commissioners as required by law. Said taxes when collected shall be deposited with the State Treasurer to the credit of a special fund to be designated as the Casualty Insurance Fund, which fund shall be kept separate and apart from all other funds and moneys in his hands, to be used for the sole purpose of administering this Act; and to be expended only on warrants issued by the Comptroller upon vouchers drawn by the Board of Insurance Commissioners, such vouchers to be accompanied by itemized sworn statements of the expenditures, and to be in addition to all taxes now imposed, or which may hereafter be imposed, not in conflict with this Section of this Act. Should there be an unexpended balance at the end of any year in said fund, the Board shall reduce the assessment for the succeeding year so that the amount produced and paid into the Treasury will not exceed the amount necessary for the current year to pay all expenses of maintaining the division of the Board of Insurance Commissioners administering the law. Acts 1945, 49th Leg., p. 207, ch. 160.

Emergency. Effective May 4, 1945.

Section 13 of the amendatory Act of 1945 repealed all inconsistent laws and parts of laws.

Section 14 read as follows: "If any section, sub-section, sub-division, paragraph,

sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portion of this Act."

Title of Act:

An Act authorizing the control by the

Board of Insurance Commissioners of the State of Texas of the business of casualty, fidelity, surety and guaranty insurance; providing for the making and filing and approval or disapproval of rates, policies and forms relative thereto; providing for the licensing of rating organizations and the fee therefor and the control thereof; providing for appeals to the Board of Insurance Commissioners by a member of a rating organization; providing for furnishing of rating information to insureds, and for a hearing for an aggrieved insured; providing for rate administration by the Board of Insurance Commissioners of Tex-

as; prohibiting rebates and providing a penalty therefor; regulating profit sharing; prohibiting the giving of false or misleading information; providing penalties for any violation of the Act; providing for the judicial review of orders of decisions of the Board of Insurance Commissioners; providing for the levying and collection of a maintenance tax; repealing all laws and parts of laws in conflict herewith; providing that if any part of the Act is held unconstitutional the balance shall be upheld; and declaring an emergency. Acts 1945, 49th Leg., p. 207, ch. 160.

CHAPTER THREE—LIFE, HEALTH AND ACCIDENT INSURANCE

Art. 4725. 4734 May invest in what securities

A life insurance company organized under the laws of this State may invest in or loan upon the following securities, and none others, viz:

1. It may invest any of its funds and accumulations in the bonds of the United States, the Dominion of Canada, or of any state, county, or city of the United States, or any province or city of the Dominion of Canada; or in any bonds, or interest-bearing warrants issued by authority of law by any county, city, town, school district or other municipality or subdivision or by any educational institution of the State of Texas which is now or hereafter may be constituted or organized under the laws of this State, and is authorized to issue such bonds and warrants under the Constitution and laws of this State, provided legal provision has been made by a tax to meet said obligations, or in the bonds and warrants of any educational institution of the State of Texas, or any municipally owned water system or sewer system when special revenues to meet the principal and interest payments as they accrue upon such obligations shall have been appropriated, pledged or otherwise provided by such municipality or educational institution; or in any paving certificates issued by any city in the State of Texas and secured by a first lien on real estate; or in bonds issued under and by virtue of the Federal Farm Loan Act approved July 17, 1916,¹ when such bonds are issued against and secured by promissory notes or obligations, the payment of which is secured by mortgage, deed of trust or other valid lien upon unencumbered real estate situated in this State; or in first mortgage bonds on real or personal property of any solvent corporation, and which has not at any time within a period of five (5) years defaulted in the payment of any of its debts; or, in the debentures of any such corporation with a capital stock of not less than Five Million Dollars (\$5,000,000) where no prior lien exists, or, under the provisions of the indenture providing for the issuance of such debentures, can be created against the real or personal property owned by such corporation at the time the debentures were issued; but in no event shall the amount of such investment in the bonds or debentures of any one such corporation exceed five per cent (5%) of the admitted assets of the insurance company making the investment; or in interest-bearing notes or bonds of the University of Texas issued under and by virtue of Chapter 40, Acts of the Forty-third Legislature, Second Called Session.²

Any company legally authorized to transact business in a foreign country may invest in the same kinds of securities of said country as hereinbefore authorized in the United States of America for an aggregate amount not exceeding the reserve on the business in force in said country.

2. It may loan any of its funds and accumulations, taking as security therefor such collateral as under the previous subdivision it may invest in. It may also make loans upon first liens upon real estate, the title to which is valid and the value of which is forty per cent (40%) more than the amount loaned thereon, or upon first liens upon leasehold estates in real property and improvements, situated thereon, the title to which is valid, and the leasehold has not less than thirty (30) years to run before expiration; provided that the duration of any loan upon such leasehold estates shall not exceed a period of ten (10) years; or upon any obligations secured collaterally by any such first liens. If any part of the value of such real estate is in buildings, such buildings shall be insured against loss by fire for at least fifty per cent (50%) of the value thereof with loss clause payable to such company. It may also make loans upon the security of or purchase of its own policies. No loan on any policy shall exceed the reserve value thereof. No investment or loan, except policy loans, shall be made by any such insurance company, unless the same shall first have been authorized by the Board of Directors or by a committee charged with the duty of supervising such investments or loans. No such company shall subscribe to, or participate in, any underwriting of the purchase or sale of securities or property or enter into any such transaction for such purpose, or sell on account of such company jointly with any other person, firm or corporation; nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its Board of Directors; provided that the provisions of this sub-division as to the value of the real estate compared to the amount loaned thereon and as to the duration of such loan shall not apply to loans secured by real estate which are insured under the provisions of Title II of the "National Housing Act", enacted by the Congress of the United States and approved by the President June 27, 1934,³ or which are guaranteed in whole or in part under the provisions of Title III of the "Servicemen's Readjustment Act of 1944", enacted by the Congress of the United States and approved June 22, 1944.⁴

3. Any life insurance company of the State, for the purpose of investing its capital and surplus or any part thereof, over and above the amount of its reserves, may purchase and hold as collateral security, or otherwise, and sell and convey the capital stock, bonds, bills of exchange or other commercial notes or bills and securities of any solvent dividend paying corporation which has not defaulted in the payment of any of its obligations for a period of five (5) years, the current market value of which such stock, bonds, bills of exchange or other commercial notes or bills and securities shall be at all times during the continuance of such loan at least fifty per cent (50%) more than the sum loaned thereon; provided that no such company shall loan or invest in its own stock, nor more than ten per cent (10%) of the amount of its capital, surplus and contingent funds in the stock of any corporation, and provided further that no such company shall invest any of its funds in any stock on account of which the holders or owners thereof may in any event, be or become liable to any assessment except for taxes, nor in the stock of any oil company or manufacturing company unless such corporation has capital stock of not less than Five Million Dollars (\$5,000,000) and unless such corporation has paid dividends for a period of five (5) years and has not defaulted in the payment of any of its debts for a period of five (5) years.

That in any case in which a life insurance company organized under the laws of this State, shall re-insure the business and take over the assets of another life insurance company, either domestic or foreign, all

investments of such re-insured company that were authorized, when made, by the laws of the state in which it was organized, as proper securities for investment of the funds of a life insurance company, and which are taken over by such re-insuring company, shall be considered as valid securities of such re-insuring company under the laws of this State, provided such investments are approved by the Board of Insurance Commissioners of this State, and same are taken over on terms satisfactory to said Board; and upon the condition that the Board of Insurance Commissioners shall have the power to require the re-insuring company to dispose of such investments upon such notice as it may deem reasonable. As amended Acts 1945, 49th Leg., p. 267, ch. 196, § 1.

¹ 39 Stat. 360, 12 U.S.C.A. § 641 et seq.

² Article 2603d.

³ 12 U.S.C.A. §§ 1707-1715.

⁴ 38 U.S.C.A. § 693 et seq.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 4732. 4741 Policies shall contain what

Sec. 12. In all family group life insurance policies there shall be included on the face of the policy the name and age of each insured; the name of the beneficiary; the maximum amount which is payable to the payee in the policy in the case of death of such insured person or persons together with a designation of all paragraphs or provisions limiting or reducing the payment to less than the maximum provided in the policy. 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, and this provision shall apply to all such family group life insurance policies sold in this State. As amended Acts 1945, 49th Leg., p. 152, ch. 102, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Section 2 of the Act of 1945 read as follows:

"Sec. 2. This law shall be cumulative of all laws and parts of laws not in conflict herewith, and all laws and parts of laws in conflict herewith are hereby repealed."

Section 2 of the amendatory Act of 1943 read as follows: "This law shall be cumulative of all laws and parts of laws not in conflict herewith, and all laws and parts of laws in conflict herewith are hereby repealed."

Art. 4744. 4755 No commissions paid officers

If any life insurance company doing business under the laws of this State has written or assumed risks that are substandard or extra hazardous and has charged therefor more than its published rates of premium, the Board of Insurance Commissioners shall in valuing such policies compute and charge such extra reserves thereon as is warranted by reason of the extra hazard assumed and the extra premium charged. If the Board of Insurance Commissioners shall find, after notice and hearing, that a particular risk or class of risks is substandard or extra hazardous, then and in that event no such company shall thereafter write or assume any such risks unless they charge therefor such extra premium as is warranted by reason of the extra hazard assumed. As amended Acts 1945, 49th Leg., p. 137, ch. 93, § 1.

Emergency. Effective April 24, 1945.

Art. 4758. Repealed. Acts 1945, 49th Leg., p. 442, ch. 279, § 4. Eff. 90 days after June 5, 1945, date of adjournment

Repeal of this article so far as in conflict, see art. 7064.

CHAPTER FOUR—TEXAS SECURITIES AND GROSS RECEIPTS TAX

Art.

4769a. Report of premiums; annual tax; report of investments; payment of tax; exclusiveness [New].

Art. 4765. 4775 Investment in Texas securities

Obligation to make investments not affected, see art. 4769a.

Art. 4769. Repealed. Acts 1945, 49th Leg., p. 442, ch. 279, § 4. Eff. 90 days after June 5, 1945, date of adjournment

Prior to repeal article was amended by Acts 1941, 47th Leg., p. 269, ch. 184, Art. XVIII, § 3. Continued obligation for payment of taxes that had accrued, see art. 4769a, § 4.

Art. 4769a. Report of premiums; annual tax; report of investments; payment of tax; exclusiveness

Section 1. Every group of individuals, society, association, or corporation (all of which shall be deemed included in the term "insurance organization" wherever used in this Act) transacting the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, or for mutual benefit, or protection in this State shall on or before the first day of March of each year file its annual statement showing the gross amount of premiums collected during the year ending December 31, preceding, from persons residing or domiciled in this State on policies of insurance, and showing in separate columns the first year premiums and the renewal premiums collected on such Texas policies, and each such insurance organization, except local mutual aid associations, fraternal benefit societies, and fraternal insurance associations or societies that limit their membership to one occupation, shall pay an annual tax of three and five-tenths per cent (3.5%) of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas on policies of insurance. Each such insurance organization shall also report to the Board of Insurance Commissioners on or before the first day of March of each year the amount that it had invested on the 31st of December, preceding, in Texas securities as defined by Article 4766 of the Revised Civil Statutes of Texas, 1925, as amended, and the amount that it had invested on said date in similar securities in the state in which it had its highest percentage of admitted assets invested, and in computing the amount of such investments in such other state it shall include as a part thereof that percentage of its investment in bonds of the United States of America purchased between December 8, 1941, and the termination of the war in which the United States is now engaged that its reserves on policies of insurance issued on the lives of persons residing or domiciled in such state are of its total reserves on all policies outstanding. If the report of such insurance organization as of December 31, preceding, shows that such organization had invested in Texas securities as defined by Article 4766 of the Revised Civil Statutes of Texas, 1925, as amended, an amount which is not less than seventy-five per cent (75%) nor more than eighty per cent (80%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be three per cent (3%) of such gross premium receipts; if the report shows such insur-

ance organization had invested in such Texas securities on such date an amount which is in excess of eighty per cent (80%) and not more than eighty-five per cent (85%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be two and seventy-five one-hundredths per cent (2.75%) of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty-five per cent (85%) and not more than eighty-eight per cent (88%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be two and twenty-five one-hundredths per cent (2.25%) of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty-eight per cent (88%) and not more than ninety per cent (90%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be one and seventy-five one-hundredths per cent (1.75%) of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of ninety per cent (90%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be ninety-five one hundredths of one per cent (.95 of 1%) of such gross premium receipts; provided, however, that all such insurance companies whose gross premium receipts are less than Four Hundred Fifty Thousand Dollars (\$450,000) for the preceding year ending December 31st, wherever and irrespective of from whom collected, according to its annual statement which shall disclose such information, shall pay a tax of five-eighths of one per cent ($\frac{5}{8}$ of 1%) of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas except as to first year premiums as provided herein; provided, however, that the gross premium taxes herein imposed shall not be applicable to first year premiums; and provided further that where any policy is written on a term plan only the premium collected during the first year shall be deducted on such policy or any renewal, extension or substitution thereof by the company issuing such term policy. Such gross premium receipts so reported shall not include premiums received from other licensed companies for reinsurance of business in Texas and there shall be no deduction for premiums paid for reinsurance. If any such insurance organization does more than one kind of insurance business, then it shall pay the tax herein levied upon the gross premiums on each kind of insurance written. The report of the gross premium receipts and the invested assets shall be made upon the sworn statement of two (2) principal officers.

Upon receipt by it of the sworn statement above provided, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by such insurance organization which shall be paid to the State Treasurer on or before the fifteenth day of March, following, and the State Treasurer shall issue his receipt therefor as evidence of the payment of such tax. Such taxes shall be for and on account of business transacted within this State during the calendar year ending December 31, in which such premiums were collected, or for that portion of the year during which the insurance organization transacted business in this State. The taxes aforesaid shall constitute all taxes and license fees collectible under the laws of this State from any such insurance organization, foreign or domestic, except, and only except unem-

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

ployment compensation taxes levied under Senate Bill No. 5, passed at the Third Called Session of the Forty-fourth Legislature and amendments thereto; and the fees provided for under Article 3920 of the Revised Civil Statutes of Texas, 1925, and amendments thereto; and in the case of companies operating under Article 4742 of the Revised Civil Statutes of Texas, 1925, the deposit fees prescribed by that Article and amendments thereto; and in case of companies writing workmen's compensation insurance, the taxes otherwise provided by law on account of such business; and no other taxes shall be levied or collected by the State or any county, city, or town except State, county, and municipal ad valorem taxes upon real or personal properties of such insurance organization.

Sec. 2. This Act shall apply to the premiums collected during 1945 and subsequent years and shall not affect the obligation of any such insurance organization for the payment of any taxes that have accrued on premium receipts for insurance issued during 1944 or in prior years, but the obligation as now provided by law for the payment of such taxes shall continue in full force and effect. No such insurance organization shall receive a permit to do business in Texas until all premium taxes due by it to the State of Texas are paid.

Sec. 3. This Act shall not in any manner affect the obligation of any such insurance organization to make investments in Texas securities in proportion to the amount of Texas reserves as required by Article 4765 of the Revised Civil Statutes of Texas, 1925, as amended.

Sec. 4. Article 7064a and Article 4769 of the Revised Civil Statutes of Texas, 1925, as amended, are repealed except for the continuing obligation of any such insurance organization for the payment of any taxes that have accrued under the provisions of either of said Articles. This Act shall be cumulative of all other laws but shall repeal Article 4758, Revised Civil Statutes of 1925, as amended; and shall repeal all other laws only in so far as they levy any tax on any of the organizations affected by this Act or otherwise conflict with this Act, except as provided herein.

Sec. 5. If any section, paragraph, sentence or clause of this Act shall be held invalid, unconstitutional, or inoperative, this shall not affect the validity of the remaining portions of this Act, but the remainder of the Act shall be given effect as if such invalid, unconstitutional, or inoperative portion had not been included. Acts 1945, 49th Leg., p. 442, ch. 279.

Effective 90 days after June 5, 1945, date of adjournment.

Title of Act:

An Act requiring every group of individuals, society, association or corporation transacting the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, or for mutual benefit, or protection in this State on or before the 1st day of March in every year to file its annual statement with the Board of Insurance Commissioners showing the gross amount of premiums collected during the year ending December 31st, preceding, from persons residing or domiciled in this State on policies of insurance, and showing in separate columns the first year premiums and the renewal premiums collected on such Texas policies; levying premium taxes against each such group of individuals, society, association, or corporation, except local mutual aid associations, fraternal benefit societies, and frat-

ernal insurance associations or societies that limit their membership to one occupation; and providing the method of computing such taxes; providing that the taxes so levied shall constitute all the taxes and license fees collectible, except and only except unemployment compensation taxes and except certain enumerated fees and taxes and prohibiting the levying and collecting of any other taxes against any such insurance organization other than ad valorem taxes by the State or any county, city, or town; providing for the continuing obligation of such insurance organization for the payment of all taxes that have accrued on business written during 1944, or in prior years; providing that no such insurance organization shall receive a permit to do business in Texas until all premium taxes due by it to the State of Texas are paid; repealing Article 7064a and Article 4769, as amended, except for the continuing obligation for the payment of all taxes that have accrued under either of

said Articles; providing that this Act shall be cumulative of all other laws, and shall repeal Article 4758, Revised Civil Statutes of Texas, 1925, as amended, and all other laws only in so far as they levy any tax on any of the organizations affected by this Act or otherwise conflict with this Act;

providing that the invalidity of any Section, paragraph, sentence, or clause of this Act shall not affect the validity of any other portion of the Act; and declaring an emergency. Acts 1945, 49th Leg., p. 442, ch. 279.

CHAPTER TEN—STATE INSURANCE COMMISSION

Art.

4905b. Application to inland marine insurance, rain insurance, or hail insurance; definitions; rates and rating plans filed; policy forms; checking offices [New].

Art.

4905c. County mutual associations excepted from Act [New].

Art. 4902. Tax on premiums as additional tax

The State of Texas shall assess and collect not exceeding an additional one and one-fourth per cent of the gross fire, lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lock-out, explosion as defined in Article 4905A, water or other fluid or substance, resulting from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes or other conduits or containers, insurance premiums of all companies doing such character of insurance business in this state according to reports made to the Board of Insurance Commissioners of Texas as required by law; and said taxes, when collected, shall be placed with the State Treasury, in a separate fund, which shall be known as the Fire Insurance Division Fund, which fund shall be kept separate and apart from other funds and moneys in his hands; and said special fund, or so much thereof as may be necessary, shall be held and expended for the purpose of carrying out the provisions of this Chapter; and should there be any unexpended balance at the end of any year, said balance shall remain in said fund and the Board of Insurance Commissioners shall reduce the assessment for the succeeding year so that the amount produced and paid into the State Treasury, together with said unexpended balance in said fund in the Treasury, will be sufficient to pay all expenses for the current year and not exceed the amount necessary to pay all necessary expenses of maintaining the Fire Insurance Division of said Board, so that no deficit shall occur in said fund, which fund shall be paid out upon requisition made out and filed by a majority of the Commission, when the Comptroller shall issue warrants therefor. The taxes levied and assessed by this Section shall be independent of and in addition to all other taxes now imposed, or which may hereafter be imposed by law, against any company mentioned herein. As amended Acts 1945, 49th Leg., p. 214, ch. 161, § 3.

Emergency. Effective May 4, 1945.

Art. 4905A. Provisions governing lightning, windstorm, hail, invasion, riot, vandalism, strikes, lockouts and other insurance; "explosion" defined

The writing of insurance against loss by lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lock-out, explosion, water or other fluid or substance, resulting from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes or other conduits or containers, or resulting from casual water entering through leaks or openings in buildings, or by seepage through building walls, including insurance against accidental injury of such sprinklers, pumps, fire apparatus, conduits or containers, and the rates to be collected therefor in this state, and all matters pertaining to such insurance except as hereinafter set out as to inland marine insurance, rain insurance and insurance against loss by hail on farm crops, shall be governed and controlled by the provisions of Articles 4878 to 4901, inclusive, and also Articles 4903 to 4905, inclusive, of Chapter 10, Title 78, Revised Civil Statutes of 1925, including amendments to Article 4891, in the same manner and to the same extent as fire insurance and fire insurance rates are now affected by the provisions of said Articles of said Chapter.

The term "explosion" as used above shall not include insurance against loss of or damage to any property of the insured, resulting from the explosion of or injury to (a) any boiler, heater, or other fired pressure vessel; (b) any unfired pressure vessel; (c) pipes or containers connected with any of said boilers or vessels; (d) any engine, turbine, compressor, pump, or wheel; (e) any apparatus generating, transmitting or using electricity; (f) any other machinery or apparatus connected with or operated by any of the previously named boilers, vessels or machines; nor shall same include the making of inspections and issuance of certificates of inspections upon any such boiler, apparatus or machinery, whether insured or otherwise. Said term shall include, but shall not be limited to (1) the explosion of pressure vessels (except steam boilers of more than fifteen pounds pressure) in buildings designed and used solely for residential purposes by not more than four families; (2) explosion of any kind originating outside of the insured buildings or outside of the building containing the property insured; (3) explosion of pressure vessels which do not contain steam or which are not operated with steam coils or steam jets; (4) electric disturbance causing or concomitant with an explosion in public service or public utility property. As amended Acts 1945, 49th Leg., p. 214, ch. 161, § 1.

Emergency. Effective May 4, 1945.

Art. 4905b. Application to inland marine insurance, rain insurance, or hail insurance; definitions; rates and rating plans filed; policy forms; checking offices

The provisions of this Section shall apply to all insurance which is now or hereafter defined by statute, by ruling of the Board of Insurance Commissioners of Texas, hereinafter called Board, or by lawful custom, as inland marine insurance, rain insurance, or insurance against loss by hail on farm crops. None of the terms contained in this Act shall be deemed to include insurance of vessels or craft, their car-

goes, marine builder's risk, marine protection and indemnity, or other risk commonly insured under marine as distinguished from inland marine insurance policies.

Whenever used in this Act the term "Marine Insurance" shall mean and include insurance and reinsurance against any and all kinds of loss or damage to the following subject matters of insurance and interest therein:

Marine Insurance. Hulls, vessels and craft of every kind, aids to navigation, dry docks and marine railways, including marine builders' and repairers' risks, and whether complete or in process of or awaiting construction; also all marine protection and indemnity risks; also all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests, and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit or transportation on or under any seas, lakes, rivers, or other waters or in the air, or on land in connection with or incident to export, import or waterborne risks, or while being assembled, packed, crated, baled, compressed or similarly prepared for such shipment or while awaiting the same, or during any delays, storage, trans-shipment or reshipment incident thereto, including the insurance of war risks in respect to any or all of the aforesaid subject matters of insurance.

(a) As to all classes of insurance contained in this Section 2, for which class rates or rating plans are customarily fixed by rating bureaus or associations of underwriters, rates or rating plans, together with applicable policy forms and endorsements, shall be filed by all authorized insurers writing such classes with the Board in such manner and form as it shall direct; and all rates on risks not falling within a recognized class fixed by any such bureau or association, together with applicable policy forms and endorsements, shall be similarly filed. Due consideration shall be given to past and prospective loss experience within and outside the state, including catastrophe hazard, to a reasonable margin for profit and contingencies, and to all other relevant factors within and outside the state.

(b) As soon as reasonably possible after the filing has been made, the Board shall in writing approve or disapprove the same; provided that any filing of class rates or rating plans, together with applicable policies and endorsements, shall be deemed approved unless disapproved within thirty days; provided the Board may by official order postpone action for such further time not exceeding thirty days, as it deems necessary for proper consideration; and provided further that rates on risks not falling within a recognized class fixed by a rating bureau or association of underwriters, together with applicable policies and endorsements, shall be deemed approved from the date of filing to the date of formal approval or disapproval. The Board may investigate rates not required to be filed under the provisions of this Section and may require the filing of any particular rate, together with applicable policies and endorsements, not otherwise required to be filed.

(c) Any filing by an insurer of a rate less than an approved rate relative to any of the rates mentioned in sub-division (a) of this Section may be used by such insurer after same shall have been approved by the Board, or after same shall have been on file with the Board without action for thirty days.

(d) If at any time the Board finds that an approved filing no longer meets the requirements of this Act, it may after hearing issue an order withdrawing its approval thereof.

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

(e) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the Board to accept such filings on its behalf. A corporation, an unincorporated association, a partnership, or an individual, whether located within or outside the state, may be licensed as a rating organization in connection with any of the sorts of insurance mentioned in this Section 2, subject to the conditions, not inconsistent herewith, prescribed by law for such organizations in connection with other kinds of insurance, provided two or more insurers have designated it to act for them as to any such class or classes of insurance in the manner prescribed herein. An insurer may belong or subscribe to rating bureaus or associations for other types of insurance.

(f) Insurers may, subject to the supervision of the Board, operate any checking office or offices deemed necessary or advisable.

(g) The writing of inland marine insurance, rain insurance and insurance against loss by hail on farm crops, shall be governed by the provisions of Articles 4878 to 4901, inclusive, and also Articles 4903 to 4905, inclusive, of Chapter 10, Title 78, Revised Civil Statutes of 1925, including amendments to Article 4891, in the same manner and to the same extent as fire insurance and fire insurance rates are now affected by the provisions of said Articles, except that wherever in any of said Articles reference is made to making, fixing, prescribing, determination or promulgation by the Board of rates or policy forms or endorsements, the provisions of this Section 2 shall control. Acts 1945, 49th Leg., p. 214, ch. 161, § 2.

Art. 4905c. County mutual associations excepted from Act

Nothing in this entire Act¹ shall ever be construed to apply to any County mutual insurance company or association, as exempted under Senate Bill 121, Acts of the 45th Legislature, 1937.² Acts 1945, 49th Leg., p. 214, ch. 161, § 4.

¹ Articles 4902, 4905A, 4905B, 4905C.

² Article 4860a—20.

CHAPTER SIXTEEN—SURETY AND TRUST COMPANIES

Art. 4969. 4928 To act as surety

Insurance Commissioners' control over fidelity, surety, and guaranty insurance, see art. 4698a.

CHAPTER EIGHTEEN—GENERAL CASUALTY COMPANIES

Article 4989. May incorporate

Insurance Commissioners' control over casualty insurance, see art. 4698a.

CHAPTER TWENTY ONE—GENERAL PROVISIONS

Art.
5068d. Officers, directors or trustees, personal non-liability for tax payments [New].

Art. 5068d. Officers, directors or trustees, personal non-liability for tax payments

No officer, trustee, or director of any insurer shall, in complying with the Statutes, be subject to any personal liability by reason of any payment, or determination not to contest payment, deemed by the board of directors or trustees to be in the corporate interest of such insurer, of any license, excise, privilege, premium, occupation, or other fee or tax to any State, territory, or political subdivision thereof, unless prior to such payment the Statute, ordinance, or other law imposing such fee or tax shall have been expressly held invalid by the State Court having final appellate jurisdiction in the premises, or by the Supreme Court of the United States; provided, however, that nothing contained herein shall be construed as directly or indirectly limiting, minimizing, or interpreting the rights and powers of insurers and their officers, trustees, and directors heretofore existing. Acts 1945, 49th Leg., p. 51, c. 34, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Title of Act:

An Act providing that no officer, trustee, or director of any insurer shall be subject to personal liability for the payment or determination not to contest payment of any fee or tax, unless prior to such payment the Statute or ordinance levying such fee or tax was finally held invalid by the

State Court having final appellate jurisdiction in the premises, or by the Supreme Court of the United States; providing that this Act shall not limit, minimize, or interpret the rights and powers of insurers, and their officers, trustees, and directors heretofore existing; and declaring an emergency. Acts 1945, 49th Leg., p. 51, c. 34.

CHAPTER TWENTY-TWO—PROVISIONS APPLICABLE TO CERTAIN SPECIFIED COMPANIES

Art.

5068—2a. Health and accident policies, article 5068—2 inapplicable to [New].

Art.

5068—5. Premium plan [New].

Art. 5068—2a. Health and accident policies, article 5068—2 inapplicable to

The provisions of Section 1, of Chapter 433, Acts of the Regular Session of the 47th Legislature,¹ shall not apply to health and accident policies. Acts 1945, 49th Leg., p. 229, ch. 172, § 1.

¹ Article 5068—2.

Emergency. Effective May 5, 1945.

Art. 5068—5. Premium plan

Any insurance company or association licensed by the Board of Insurance Commissioners to operate under Senate Bill No. 135, Acts of the Regular Session of the 46th Legislature,¹ may issue policies on the stipulated or specified premium plan which allow the insured the privilege of paying regular premiums weekly, monthly, quarterly, semiannually, or annually, as he may choose from time to time. Such policies may also provide that upon the maturity of benefits payable under the policy or certificate any balance of premium for the current policy year remaining unpaid shall be deducted from the benefits payable. The provisions of this Act shall apply to all outstanding policies already containing such a provision. Acts 1945, 49th Leg., p. 191, ch. 146, § 1.

¹ Article 5068—1.

Emergency. Effective May 3, 1945.

Section 2 of the Act of 1945 repealed all conflicting laws and parts of laws.

Title of Act:

An Act providing that any insurance company or association licensed by the

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

Board of Insurance Commissioners to operate under Senate Bill No. 135, Acts of the Regular Session of the 46th Legislature, may issue policies on the stipulated or specified premium plan which allow the insured the privilege of paying regular premiums weekly, monthly, quarterly, semi-annually, or annually as he may choose from time to time; and providing further that such policies may provide that upon

maturity of benefits payable under the policy or certificate any balance of premium for the current policy year remaining unpaid shall be deducted from the benefits payable; validating these provisions in all outstanding policies or certificates; repealing all laws or parts of laws in conflict herewith, and declaring an emergency. Acts 1945, 49th Leg., p. 191, ch. 146.

TITLE 82—JUVENILES

Art.

5143b. Clothing, money and transportation furnished on release from Gates-

ville and Gainesville training schools [New].

Art. 5128. 5231 Limitation of term

Clothing, transportation and money furnished on parole or discharge, see art. 5143b.

Art. 5130. Punishment of inmates

Section 1. Corporal punishment in any form shall not be inflicted upon any boy who is an inmate of said institution except as a last resort to maintain discipline and then only after the evidence has been presented to the Superintendent and the Chaplain and they have carefully considered same. In the event they deem it necessary they shall first have the school physician carefully examine the boy to determine the condition of his health. If he is found to be in good health the Superintendent and the Chaplain shall sign a whipping order. The whipping shall take place in the presence of the Superintendent, the Chaplain and the school physician and not in the presence of any other inmate. The boy shall not receive over ten (10) licks with a light strap for any offense for which he is being punished. The child being whipped shall at no time ever have the skin broken or shall ever be struck except as hereinabove provided by any guard or employee of said school or shall he be in any way abused or threatened by any guard or employee.

Sec. 2. If any employee be found guilty of abusing, threatening, striking, breaking the skin or whipping any boy without first complying with the above set out requirements, he shall be deemed guilty of and filed on for aggravated assault. If any Superintendent in possession of information about any employee guilty of any of the above offenses fails to investigate such offenses and discharge the employee or employees guilty thereof, he shall himself be discharged by the Board of Control after a proper hearing before said Board.

Sec. 3. All whipping orders issued in the said school shall be preserved as permanent records and shall reflect the offense for which said inmates are punished. Said orders shall also have attached thereto and preserved therewith the written report of the examination by the physician, the name of the person administering the whipping and the names of the witnesses present at the whipping. As amended Acts 1945, 49th Leg., p. 385, ch. 247, § 1.

Emergency. Effective May 24, 1945.

Art. 5133. Superintendent and officers

The Board shall employ as superintendent of such school a man or a woman of business experience necessary for such management, who shall

have power to appoint and discharge all subordinate officials and teachers for the school. The Board shall fix the salary of the superintendent and all employees as provided for by appropriation. The Board shall have power to remove the superintendent for cause, and the decision of said Board in such matter shall be final. As amended Acts 1945, 49th Leg., p. 174, ch. 132, § 1.

Emergency. Effective April 30, 1945.

Art. 5137. Dismissal of inmates

Clothing, transportation and money furnished on parole or discharge, see art. 5143b.

Art. 5139. County Juvenile Board

In any county having a population of more than seventy thousand (70,000) inhabitants and less than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, the judges of the several district and criminal district courts of such county, together with the county judge of such county, are hereby constituted a Juvenile Board for such county. The members composing such Juvenile Board in such county shall each be allowed additional compensation of not less than Six Hundred Dollars (\$600) per annum and not more than Twelve Hundred Dollars (\$1200) per annum, which shall be paid in twelve equal installments out of the general fund of such county, such annual additional compensation to be fixed by the Commissioners Court of such county.

In any county having a population of one hundred thousand (100,000) or over, according to the preceding Federal Census, the judges of several district and criminal district courts of such county, together with the county judge of each county, are hereby constituted a Juvenile Board of such county. The annual salary of each of the judges of the civil and criminal district courts of such county as members of said board shall be Fifteen Hundred Dollars (\$1500) in addition to that paid the other district judges of the State, said additional salary to be paid monthly out of the general funds of such county, upon the order of the Commissioners Court. As amended Acts 1945, 49th Leg., p. 422, ch. 268, § 1.

Emergency. Effective May 26, 1945.

Section 2 of the Act of 1945 repealed Art. 5139A and section 3 repealed Art. 5139B.

Art. 5139A. Repealed. Acts 1945, 49th Leg., p. 422, ch. 268, § 2. Eff. May 26, 1945

Section was added by Acts 1939, 46th Leg., Spec.L., p. 853, § 1 and related to Juvenile Boards.

Art. 5139B. Repealed. Acts 1945, 49th Leg., p. 422, ch. 268, § 2. Eff. May 26, 1945

Section was added by Acts 1941, 47th Leg., p. 552, ch. 349, § 1 and related to Juvenile Boards.

Art. 5142. Qualifications, duties, appointment, salaries and removal

There may be appointed, in the manner hereinafter provided, discreet persons of good moral character to serve as juvenile officers, for periods not to exceed two (2) years from date of appointment.

Such officers shall have authority and it shall be their duty to make investigations of all cases referred to them as such by such Board; to be present in Court and to represent the interest of the juvenile when the case is heard, and to furnish to the Court and such Board any information and assistance as such Board may require, and to take charge of any child before and after the trial and to perform such other services for the child as may be required by the Court or said Board, and such

juvenile officers shall be vested with all the power and authority of police officers or sheriffs incident to their offices.

The clerk of the Court shall, when practicable, notify such juvenile officer when any juvenile is to be brought before the Court. It shall be the duty of such juvenile officer to make investigation of any such case, to be present in Court to represent the interest of the juvenile when the case is tried; to furnish to such Court such information and assistance as the Court may require and to take charge of any juvenile before and after the trial as the Court may direct. In counties having a population of less than eighty thousand (80,000), one juvenile officer may be appointed by the Commissioners Court, when in their opinion, such officer is needed, who shall receive a compensation not to exceed One Hundred and Twenty-five Dollars (\$125) per month. Provided that in counties having a population of not less than thirty-five thousand (35,000) and not more than eighty thousand (80,000) and containing a city of more than twenty-nine thousand (29,000) population, one juvenile officer may be appointed by the Commissioners Court, when in their opinion the services of such officer is needed, whose salary shall not exceed Two Hundred Dollars (\$200) per month and expenses not to exceed Two Hundred and Fifty Dollars (\$250) per year, and in such counties the Commissioners Court may appoint an assistant to the said juvenile officer, when in their opinion such assistant is necessary, whose salary shall not exceed One Hundred and Fifty Dollars (\$150) per month. Provided further that, in counties having a population of not less than twenty thousand (20,000) and not more than eighty thousand (80,000), as shown by the 1940 Federal Census or any future Federal Census, and which have an assessed valuation of taxable property of not less than Fourteen Million Five Hundred Thousand Dollars (\$14,500,000) and not more than Sixteen Million Dollars (\$16,000,000), one juvenile officer may be appointed by the Commissioners Court, when in their judgment such officer is needed, who shall receive a salary not to exceed Two Hundred Dollars (\$200) per month.

Provided that in counties having a population of eighty thousand (80,000) and less than one hundred and fifty thousand (150,000), the county judge may appoint a juvenile officer, subject to the approval of the County Juvenile Board, for a period not to exceed two (2) years from date of appointment at a salary not to exceed Two Hundred and Fifty Dollars (\$250) per month, and expenses not to exceed Four Hundred and Twenty Dollars (\$420) per year. Such juvenile officer may select assistant juvenile officer, subject to the approval of the county judge and the County Juvenile Board, the number not to exceed one (1) assistant juvenile officer to each twenty-five thousand (25,000) population. The salaries of such assistant juvenile officers shall be the same as that fixed by the General Law, in Article 3902, Revised Civil Statutes of Texas, 1925, for assistants to other county officials. Such assistant juvenile officers may be allowed expenses, each not to exceed Four Hundred and Twenty Dollars (\$420) per year.

Provided that in counties having a population of one hundred and fifty thousand (150,000) or more, and containing a city of one hundred thousand (100,000) or more, the county judge may appoint a juvenile officer, subject to the approval of the County Juvenile Board, to serve for a period not to exceed two (2) years from the date of appointment, and whose extra duties shall be to make investigations for the Commissioners Court on applications for charity, or admittance into detention homes or orphan homes created by such counties. The salary of such juvenile officer shall not exceed Three Hundred Dollars (\$300) per month, his allowance for expenses not to exceed Two Hundred Dollars

(\$200) a year. Such juvenile officer may select assistant juvenile officers, subject to the approval of the county judge and the County Juvenile Board, the number of such assistant juvenile officers not to exceed one (1) assistant to each twenty-five thousand (25,000) population. The salaries of such assistant juvenile officers shall be the same as that fixed by the General Law in Article 3902 of the Revised Civil Statutes of Texas, 1925, for assistants to other county officials. Such assistant juvenile officers may be allowed expenses not to exceed Two Hundred Dollars (\$200) per year each.

In the appointment of all juvenile officers, the county judge and the County Juvenile Board may select for such office any school attendance officer or officers of the county, or of school districts in the county, that may be authorized by law, and the salary and expense of such joint juvenile officer or officers and attendance officers shall be paid jointly by the county and school authorities upon any basis of division they may agree upon.

Salaries of paid juvenile officers and their assistants shall be fixed by the Commissioners Court, not to exceed the sums herein mentioned, and any bill for the expenses not exceeding the sums herein provided for, shall be certified by the county judge as being necessary in the performance of the duties of a juvenile officer. The Commissioners Court of the county shall provide the necessary funds for the payment of salaries and expenses of the juvenile officers provided for in this Act. The appointment of said juvenile officers shall be filed in the office of the clerk of the county Court. Juvenile officers shall take the oath to perform their duties and file such oath in the office of the county clerk. As a basis for reckoning the population of any county the preceding Federal Census shall be used.

Provided that any juvenile officer appointed under the provisions of this Act may be removed from office by the power appointing him at any time. As amended Acts 1945, 49th Leg., p. 282, ch. 205, § 1.

Emergency. Effective May 11, 1945.

Art. 5142b. Juvenile officers in counties of 320,000 and not less than 220,000

Compensation

Sec. 5. The compensation of all probation officers shall be fixed by the Juvenile Board subject to the approval of the County Commissioners Court, which shall not exceed Four Hundred Dollars (\$400) per month for the Chief Probation Officer, and not to exceed Three Hundred Dollars (\$300) per month for the First Assistant of Chief Deputy, and not to exceed Two Hundred and Fifty Dollars (\$250) per month for one Assistant or Deputy, and not to exceed Two Hundred Dollars (\$200) per month for all other Deputy Assistants. As amended Acts 1945, 49th Leg., p. 251, ch. 185, § 1.

Emergency. Effective May 9, 1945.

Supervision of Institutions by Juvenile Board; superintendents

Sec. 7. That all homes, schools, farms and any and all other institutions or places of housing maintained and used chiefly by the County for the training, education, and support or correction of juveniles shall be under the control and supervision of the Juvenile Board, and the Superintendent of each such institution shall be appointed by the Chief Probation Officer for a term of two (2) years, and each such appointment shall be confirmed by the Juvenile Board. The salaries of all of the Su-

perintendents shall be fixed by the County Commissioners Court. As amended Acts 1945, 49th Leg., p. 251, ch. 185, § 2.

Emergency. Effective May 9, 1945.

Art. 5143b. Clothing, money and transportation furnished on release from Gatesville and Gainesville training schools

Section 1. Upon the discharge or parole of any person committed to the Gatesville State School for Boys or the Gainesville State School for Girls, the Superintendent of the Institution from which such person is discharged or paroled shall provide them with a complete suit of suitable clothing, and Five Dollars (\$5) in money, and procure transportation for them to their homes, if resident of this State, or to the county in which they may have been convicted or to such other place in the State at which said discharged or paroled person may have procured employment or to a place where a suitable home has been found for such person.

Sec. 2. The furnishing of clothing and transportation and the payment of money may be made from appropriations for support and maintenance made to the Institution from which such person was discharged or paroled, or from local funds, or from any appropriation specifically made for such purposes by the Legislature of the State of Texas. Acts 1945, 49th Leg., p. 155, ch. 106.

Emergency. Effective April 30, 1945.

Title of Act:

An Act to provide for the furnishing of clothing, transportation, and money to persons paroled or discharged from the Gatesville State School for Boys and Gainesville

State School for Girls; providing the fund or funds from which such clothing, transportation and money may be paid; and declaring an emergency. Acts 1945, 49th Leg., p. 155, ch. 106.

TITLE 83—LABOR

Veterans' preference in employment on public works, see art. 4413(31).

CHAPTER FOURTEEN—UNEMPLOYMENT COMPENSATION

Art. 5221b—22a. Unemployment compensation special administration fund [New].	Art. 5221b—22b. Title.
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Art. 5221b—1. Benefits; amount and payment; duration

(a) Payment of benefits: On and after January 1, 1938, benefits shall become payable from the fund. All benefits shall be paid through the Texas Unemployment Compensation Commission, in accordance with such regulations as the Commission may prescribe.

(b) Benefit amount for total unemployment: Each eligible individual who is totally unemployed in any benefit period shall be paid with respect to such benefit period, benefits at the rate of one-thirteenth (1/13) of his wages received from employment by employers during that quarter in his base period in which such wages were highest, provided that:

(1) If such rate is not an even multiple of One Dollar (\$1), it shall be adjusted to the next higher multiple of One Dollar (\$1), and

(2) Such rate shall not be more than Thirty-six Dollars (\$36) per benefit period nor less than Ten Dollars (\$10) per benefit period.

(c) Benefit for partial unemployment: Each eligible individual who is partially unemployed in any benefit period shall be paid with respect to such benefit period a partial benefit, provided that such individual shall meet the requirements of Section 4 (a) of this Act.¹ Such partial benefit shall be the benefit amount plus Four Dollars (\$4) less the wages earned during such benefit period, provided that if the result of such computation is not an even multiple of One Dollar (\$1), it shall be adjusted to the next higher multiple of One Dollar (\$1).

(d) Duration of benefits: The Commission shall establish wage credits for each individual by crediting him with the wages received by him for employment by employers during his base period, up to a maximum of One Thousand, Six Hundred and Twenty Dollars (\$1,620). The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed whichever is the lesser of:

(1) Nine (9) times his benefit amount, or

(2) One-fifth (1/5) of such wage credits. As amended Acts 1945, 49th Leg., p. 589, ch. 347, § 1.

¹ Article 5221b—2.

Effective Sept. 1, 1945.

Section 10 of the act of the 1945 provided that the effective date of the bill should be Sept. 1, 1945. Section 11 read as follows: "All laws or parts of laws in conflict herewith, in so far as they do conflict herewith, are hereby repealed, but such repeal shall in no way be construed as forfeiting or waiving any rights of the State of Tex-

as or of the Texas Unemployment Compensation Commission which have accrued thereunder, including, without limiting or without being limited thereto, the right to collect contributions, interest or penalties that have accrued, and the right of prosecution for violation of any provision thereof."

Art. 5221b—2. Benefit eligibility conditions

An unemployed individual shall be eligible to receive benefits with respect to any benefit period only if the Commission finds that:

(a) He has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulations as the Commission may prescribe;

(b) He has made a claim for benefits in accordance with the provisions of Section 6 (a) of this Act;¹

(c) He is able to work;

(d) He is available for work;

(e) He has within his base period received wages from employment by employers equal to not less than nine (9) times his benefit amount;

(f) Prior to the first payment of any series of benefits based on an initial claim, he has been totally or partially unemployed for a waiting period of one week. No week shall be counted as a waiting period week for the purposes of this subsection:

(1) Unless he has registered at an employment office in accordance with Section 4 (a) of this Act;²

(2) Unless it is the week immediately preceding or the week immediately following the filing of an initial claim, as the Commission may by regulation prescribe;

(3) If benefits have been paid with respect thereto. As amended Acts 1945, 49th Leg., p. 589, ch. 347, § 2.

¹ Article 5221b—4.

² Article 5221b—2.

Effective Sept. 1, 1945.

Art. 5221b—5. Contributions

(a) Payment: On and after January 1, 1936, contributions shall accrue and become payable by each employer for each calendar year, or portion thereof, in which he is subject to this Act,¹ with respect to wages payable for employment occurring during such calendar year; provided, however, that on and after July 1, 1943, contributions shall accrue and become payable by each employer for each calendar year, or portion thereof, in which he is subject to this Act, with respect to wages paid for employment occurring on or after July 1, 1943, and during such calendar year, or portion thereof. Such contributions shall become due and be paid by each employer to the Commission for the fund in accordance with such regulations as the Commission may prescribe; and shall not be deducted in whole or in part from the wages of individuals in such employer's employ.

(b) Rate of contributions: Each employer shall pay contributions equal to the following percentages of wages payable by him, with respect to employment:

(1) Nine-tenths of one per centum (9/10 of 1%) with respect to employment during the calendar year 1936;

(2) One and eight-tenths per centum (1-8/10%) with respect to employment during the calendar year 1937;

(3) Two and seven-tenths per centum (2-7/10%) with respect to employment during the calendar year 1938, 1939, and 1940;

(4) With respect to employment after December 31, 1940, the percentage determined pursuant to Subsection (c) of this Section; except that with respect to employment occurring on and after July 1, 1943, the determination shall be made with respect to wages paid by him.

(c) Experience Rating: (1) For each calendar year commencing after December 31, 1940, the contribution rate of each employer who has had three (3) years of compensation experience shall be determined by the fund's maximum liability for benefits to his employees who have received benefits, modified by the state experience as to average duration of benefit payments, as provided below.

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

(2) When in any benefit year total benefits paid to an individual for total or partial unemployment first exceed his benefit amount for total unemployment, his wages received during his base period shall be termed "benefit wages", and shall be treated for the purposes of this Subsection 7 (c) as though they had been paid in the calendar year in which such individual's payments for his current benefit year first exceed his benefit amount for total unemployment. "Benefit wages" shall include only the wages from employers available for wage credits in a base period, and shall not exceed One Thousand, Six Hundred and Twenty Dollars (\$1,620) for any one employee or former employee. Each "employer's benefit wages" for a given calendar year shall be the total of the "benefit wages" received from him by all of his employees or former employees with respect to such year.

(3) For the purposes of this Section, benefits shall be deemed to have been paid at the time the claim therefor shall have been certified by the Commission to the State Comptroller.

(4) The benefit wage ratio of each employer shall be a percentage equal to the total of his "employer's benefit wages" for the most recent three (3) consecutive completed calendar years divided by his total taxable payroll for the same three (3) years on which contributions have been paid to the Commission on or before January 31 of the calendar year with respect to which his benefit wage ratio is determined.

(5) For any calendar year the total benefits paid from the fund, less all amounts credited to the fund except employers' contributions collected under this Section, and except interest earned on the fund, shall be termed the "amount required from employers." The amount required from employers, divided by the state-wide total of "employer's benefit wages" of all employers for that calendar year, after adjustment to the nearest multiple of one per centum (1%) shall be termed the "State experience factor" The state experience factor for any year shall be determined prior to the due date of the first contribution payment on wages for employment in that year and such determination shall be made upon the basis of figures for the preceding calendar year.

(6) The contribution rate for each employer shall be in accordance with the following table based upon the state experience factor and his benefit wage ratio:

When the State Experience		Factor is					
		If the Employer's Benefit Wage Ratio Does Not Exceed:					
		1%	50%	100%	150%	200%	250%
	1						
	2	25	50	75	100	125	
	3	17	33	50	66	83	
	4	13	25	38	50	63	
	5	10	20	30	40	50	
	6	8	17	25	34	42	
	7	7	14	21	29	36	
	8	6	13	19	25	31	
	9	6	11	16	22	28	
	10	5	10	15	20	25	
	11	5	9	14	18	23	
	12	4	8	13	17	21	
	13	4	8	12	15	19	
	14	4	7	11	14	18	
	15	3	7	10	13	17	
	16	3	6	9	12	16	
	17	3	6	9	12	15	
	18	3	6	8	11	14	

When the State
Experience

Factor is	If the Employer's Benefit Wage Ratio Does not Exceed:				
19	3	5	8	11	13
20	3	5	8	10	13
21	2	5	7	10	12
22	2	5	7	9	11
23	2	4	7	9	11
24	2	4	6	8	10

"The Employer's Contribution Rate Shall Be:

0.5%	1.0%	1.5%	2.0%	2.5%
------	------	------	------	------

If the employer's benefit wage ratio for any year exceeds the amount in the last column of the table on the line for the state experience factor for the same year, his contribution rate for that year shall be two and seven-tenths per centum (2-7/10%).

(7) For the purposes of this Section, two or more employing units which are parties to or the subject of a merger, consolidation, or other form of reorganization effecting a change in legal identity or form, shall be deemed to be a single employing unit if the Commission finds that (i) immediately after such change the employing enterprises of the predecessor employing unit or units are continued solely through a single employing unit as successor thereto; and (ii) immediately after such change such successor is owned or controlled by substantially the same interests as the predecessor employing unit or units; and (iii) the successor has assumed liability for all contributions required of the predecessor employing unit or units; and (iv) the consideration of such two or more employing units as a single employing unit for the purposes of this Section would not be inequitable.

No rate of less than two and seven-tenths per centum (2-7/10%) will be permitted an employing unit succeeding to the experience of another employing unit pursuant to this Section for any period subsequent to such succession except in accordance with regulations prescribed by the Commission, which regulations will be consistent with Federal requirements for additional credit allowance in Section 1602 of the Internal Revenue Code,² and consistent with the provisions of this Act, except that such regulations may establish a computation date for any such period different from the computation date generally prescribed by this Act, and may define the words "calendar year" as meaning a twelve (12) consecutive month period ending on the same day of the year as that on which such computation date occurs.

(8) Nothing in this Section shall be construed as authorizing or requiring the refund of any contributions or portions thereof due and paid prior to July 1, 1943, under this Section, or as waiving the right to collect any contributions or portions thereof due and unpaid under this Section on June 30, 1943.

(d) Each employer's rate shall be two and seven-tenths per centum (2-7/10%) except as otherwise provided in this Section. No employer's rate shall be less than two and seven-tenths per centum (2-7/10%) for any year, unless and until his account has been chargeable with benefits throughout the thirty-six (36) consecutive calendar months immediately preceding the beginning of the calendar year for which rates are determined. As amended Acts 1945, 49th Leg., p. 589, ch. 347, § 3.

¹ Articles 5221b—1 to 5221b—22.

² 26 U.S.C.A. § 1602.

Effective Sept. 1, 1945.

Art. 5221b—6. Duration of coverage

(a) Any employing unit which is or becomes an employer subject to this Act¹ within any calendar year shall be subject to this Act during the whole of such calendar year.

(b) (1) An employing unit, not otherwise subject to this Act, which files with the Commission its written election to become an employer subject hereto for not less than two (2) calendar years, shall, with the written approval of such election by the Commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval.

(2) Any employing unit for which services that do not constitute employment as defined in this Act are performed, may file with the Commission a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this Act for not less than two (2) calendar years. Upon the written approval of such election by the Commission, such services shall be deemed to constitute employment subject to this Act from and after the date stated in such approval, and during the period of the election.

(c) An employing unit shall cease to be an employer subject to this Act only as of the 1st day of January of any calendar year, if it files with the Commission, on or before the 31st day of March of such year, a written application for termination of coverage, and the Commission finds that there were no twenty (20) different days, each day being in a different week within the preceding calendar year, within which such employing unit employed eight (8) or more individuals in employment subject to this Act. For the purposes of this subsection the two or more employing units mentioned in Paragraph (2) or (3) or (4) of section 19 (f)² shall be treated as a single employing unit.

(d) Any employing unit which is or becomes an employer subject to this Act, and which under the provisions of this Section ceases to be an employer subject to this Act and subsequent to such time again becomes an employer subject to this Act by reason of any of the provisions thereof, shall upon again becoming an employer subject to this Act be considered a new employer without regard to any rights acquired by it during the time that it had theretofore been an employer. As amended Acts 1945, 49th Leg., p. 589, ch. 347, § 4.

¹ Articles 5221b—1 to 5221b—22.

² Article 5221b—17.

Effective Sept. 1, 1945.

Art. 5221b—7. Unemployment compensation fund

(a) Establishment and Control: There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an Unemployment Compensation Fund, which shall be administered by the Commission exclusively for the purposes of this Act. This fund shall consist of (1) all contributions collected under this Act;¹ (2) interest earned upon any moneys in the fund; (3) any property or securities acquired through the use of moneys belonging to the fund; (4) all earnings of such property or securities; and (5) all other moneys received for the fund from any other source. All moneys in the fund shall be mingled and undivided.

(b) Accounts and Deposits: The State Treasurer shall be treasurer and custodian of the fund. He shall administer such fund in accordance with the directions of the Commission, and the Comptroller shall issue warrants upon it in accordance with such regulations as the

Commission shall prescribe. The Treasurer shall maintain within the fund three (3) separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the Commission, shall be forwarded to the Treasurer who shall immediately deposit them in the clearing account. All moneys in the clearing account, after clearance thereof, shall, except as herein otherwise provided, be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended,² any provisions of the law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. Refunds payable pursuant to Section 14 of this Act³ may be paid from the clearing account or the benefit account upon warrants issued by the Comptroller under the direction of the Commission, except that refund of penalties which are erroneously collected, and which are to be refunded in accordance with the provisions of Subsection 14 (j) of this Act, shall be paid out of the Unemployment Compensation Special Administration Fund. The benefit account shall consist of all moneys requisitioned from this State's account in the Unemployment Trust Fund in the United States Treasury. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the Commission, in any bank or public depository in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. All moneys in this fund shall be deposited, administered and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. The State Treasurer shall be liable, on his official bond, for the faithful performance of his duties in connection with the Unemployment Compensation Fund provided under this Act. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to the liability on any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered for losses sustained by the fund shall be deposited therein.

(c) Withdrawals: Moneys requisitioned from this State's account in the Unemployment Trust Fund shall be used exclusively for the payment of benefits and for refunds pursuant to Section 14. The Commission shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to its account therein, as it deems necessary for the payment of benefits and refunds for a reasonable future period. Upon receipt thereof, the Treasurer shall deposit such moneys in the benefit account, and the Comptroller shall issue his warrants for payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account, and refunds from the clearing account, shall not be subject to any provision of law which may require itemization or other formal release by State officers of money in their custody. All warrants issued for the payment of benefits and refunds shall bear the signature of the Treasurer and the countersignature of a member of the Commission, or its duly authorized agent, for that purpose. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned, shall either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during

succeeding periods, or, in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the Unemployment Trust Fund as provided in Subsection (b) of this Section.

(d) If a warrant has been issued by the Comptroller in payment of benefits as provided under this Act, and if the claimant entitled to receive such warrant has lost or loses, or for any reason failed or fails to receive such warrant after such warrant is or has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue to claimant a duplicate warrant as provided for in Article 4365, Revised Civil Statutes of Texas, 1925, but in no event shall a duplicate warrant be issued after one year from the date of the original warrant.

If, after any warrant has been issued by the Comptroller payable to a claimant for benefits under the provisions of this Act, and such warrant shall have been lost or misplaced, or if claimant for any reason fails or refuses to present said warrant for payment within twelve (12) months after the date of issuance of such warrant, such warrant shall be cancelled, and thereafter no payment shall be made by the Treasurer on such warrant, and no duplicate warrant in place thereof shall ever be issued.

(e) Management of Funds Upon Discontinuance of Unemployment Trust Fund: The provisions of Subsections (a), (b), (c), and (d) to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other State is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the Unemployment Compensation Fund of this State, shall be transferred to the Treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the Commission, in accordance with the provisions of this Act; provided, that such moneys shall be invested in the following readily marketable classes of securities: bonds or other interest-bearing obligations of the United States of America; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commission. As amended Acts 1945, 49th Leg., p. 589, ch. 347, § 5.

¹ Articles 5221b—1 to 5221b—22.

² 42 U.S.C.A. § 1104.

³ Article 5221b—12.

Effective Sept. 1, 1945.

Art. 5221b—15a. Reciprocal arrangements

(a) The Commission is hereby authorized to enter into arrangements with the appropriate agencies of other States or of the Federal Government whereby individuals performing services in this and other States for a single employing unit shall be deemed to be engaged in employment performed entirely within either:

(1) This State or within one of such other States where some portion of his services are performed, or

(2) The State in which such individual has his residence, or

(3) The State in which the employing unit maintains a place of business.

(b) The Commission is also authorized to enter into arrangements with the appropriate agencies of other States or the Federal Government whereby potential rights to benefits accumulated under the unemployment compensation laws of one or more States or under one or more such laws of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the Commission finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

(c) The Commission is authorized to make to other State or Federal agencies and to receive from such other State or Federal agencies, reimbursements from or to the fund, in accordance with arrangements entered into pursuant to Subsection (b) of this Section. Reimbursements paid from the fund pursuant to this subsection shall be deemed to be benefits for the purposes of this Act.

(d) The Commission is also authorized to enter into reciprocal arrangements with appropriate duly authorized agencies of other States or of the Federal Government, or both, whereby services on vessels engaged in interstate or foreign commerce for a single employer, wherever they are performed, shall be deemed performed within this State or within any such other State. As amended Acts 1945, 49th Leg., p. 121, ch. 67, § 6.

¹ Articles 5221b—1 to 5221b—22.

Effective Sept. 1, 1945.

Art. 5221b—17. Definitions

As used in this Act, unless the context clearly requires otherwise:

(a) (1) "Act" means the Texas Unemployment Compensation Act, which is Senate Bill No. 5, Chapter 482, General and Special Laws of the Forty-fourth Legislature, Third Called Session, as amended.¹

(2) "Base period" means the first four (4) out of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

(3) "Calendar quarter" means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Commission may by regulation prescribe.

(b) (1) "Benefits" means the money payments payable to an individual, as provided in this Act, with respect to his unemployment.

(2) "Benefit amount": An individual's "benefit amount" means the amount of benefits he would be entitled to receive for one benefit period of total unemployment.

(3) "Benefit period": An individual's "benefit period" means such period of fourteen (14) consecutive calendar days as the Commission may by regulation prescribe.

(4) "Benefit year", with respect to any individual, means the fifty-two (52) consecutive week period beginning with the day on which the first valid claim for benefits is filed, and thereafter the fifty-two (52) consecutive week period beginning with the day on which his next valid claim for benefits is filed after the termination of his last preceding benefit year.

(c) "Commission" means the Unemployment Compensation Commission established by this Act.

(d) "Contributions" means the money payments to the State Unemployment Compensation Fund required by this Act.

(e) "Employing unit" means any individual or type of organizations, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or, subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all purposes of this Act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(f) "Employer" means:

(1) Any employing unit which for some portion of a day but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or the preceding calendar year has or had in employment eight (8) or more individuals (irrespective of whether the same individuals are or were employed in each such day);

(2) Any individual or employing unit which acquired the organization, trade, or business, or substantially all of the assets thereof, of another which at the time of such acquisition was an employer subject to this Act;

(3) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this Act) and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit, would be an employer under Paragraph (1) of this subsection;

(4) Any employing unit which, together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise), directly or indirectly by the same interest, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which if treated as a single unit with such other employing unit, would be an employer under Paragraph (1) of this subsection;

(5) Any employing unit which, having become an employer under Paragraphs (1), (2), (3), or (4), has not, under Section 8,² ceased to be an employer subject to this Act;

(6) For the effective period of its election pursuant to Section 8 (b) any other employing unit which has elected to become fully subject to this Act.

(7) Any employing unit which is liable for the payment of taxes under the Federal Unemployment Tax Act for the calendar year 1946 or for any subsequent calendar year.

(g) (1) "Employment" means any service performed prior to October 1, 1941, which was employment as defined in this Section prior to such date, and subject to the provisions of this Subsection, services performed on and after October 1, 1941, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied, provided that any services performed

by an individual for wages shall be deemed to be employment subject to this Act unless and until it is shown to the satisfaction of the Commission that such individual has been and will continue to be free from control or direction over the performance of such services both under his contract of service and in fact.

(2) The term "employment" shall include an individual's entire service, performed within or both within and without this State, if:

(A) The service is localized in this State; or

(B) The service is not localized in any state but some of the service is performed in this State and (i) the base of operations, or, if there is no base of operations then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this State.

(3) (A) Service not covered under Paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state, shall be deemed to be employment subject to this Act if the individual performing such services is a resident of this State and the Commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this Act.

(B) Services covered by reciprocal agreements authorized by this Act between the Commission and the agency charged with the administration of any other state or Federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this State, shall be deemed to be employment, if the Commission has approved an election of the employing unit for whom such services were performed pursuant to which the entire service of such individual during the period covered by such election is deemed to be employment subject to this Act.

(4) Service shall be deemed to be localized within a state, if:

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) The term "employment" shall not include:

(A) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions;

(B) Service with respect to which unemployment compensation is payable under an Unemployment Compensation System established by an Act of Congress; provided that the Commission is hereby authorized to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in Section 11 (b) of this Act³ for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act;

- (C) Agricultural labor;
- (D) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;
- (E) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) years in the employ of his father or mother;
- (F) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation;
- (G) Service performed in any calendar quarter in the employ of any organization exempt from income tax under Section 101 of the Internal Revenue Code,⁴ if (i) the remuneration for such service does not exceed Forty-five Dollars (\$45), or (ii) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, or (iii) such service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;
- (H) Service performed in the employ of this State or of any other state, or of any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by this State or by one or more states or political subdivisions; and any service performed in the employ of any instrumentality of this State or of one or more states or political subdivisions to the extent that the instrumentality is with respect to such service, exempt under the Constitution of the United States from the tax imposed by Section 1600 of the Federal Internal Revenue Code;⁵
- (I) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (i) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual; and (ii) eighty-five per cent (85%) or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;
- (J) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (i) admission to membership in such association is limited to individuals who are officers or employees of the United States Government; and (ii) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;
- (K) Service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under Section 101 of the Federal Internal Revenue Code,⁴ if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed Forty-five Dollars (\$45) (exclusive of room, board and tuition);
- (L) Service performed in the employ of a foreign government (including wages as a consular or other officer or employee, or a non-diplomatic representative);

(M) Service performed in the employ of an instrumentality wholly owned by a foreign government (i) if the service is of a character similar to that performed in foreign countries by the employees of the United States Government or of an instrumentality thereof; and (ii) if the Commission finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(N) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an interne in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;

(O) Service performed by an individual for a person as an insurance agent or an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(P) Service performed by an individual under the age of eighteen (18) years in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(Q) Service covered by an arrangement between the Commission and the agency charged with the administration of any other state or Federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election are deemed to be performed entirely within such agency's state or under such Federal law;

(R) Service performed in the employ of the United States Government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this Act, except that to the extent that the Congress of the United States shall permit States to require any instrumentalities of the United States to make payments into an unemployment fund under a State unemployment compensation law, all of the provisions of this Act shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; Provided, That if this State shall not be certified for any year by the Social Security Board under Section 1603 (c) of the Federal Internal Revenue Code,⁶ the payments required of such instrumentalities with respect to such year shall be refunded by the Commission from the fund in the same manner and within the same period as is provided in Section 14 (j) of this ⁷ Act with respect to contributions erroneously collected;

(6) Included and Excluded Service. If the services performed during one-half or more of any pay period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an individual for the person employing him do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection the term

"pay period" means a period (of not more than thirty-one (31) consecutive days) for which a payment of remuneration is ordinarily made to the individual by the person employing him. This subsection shall not be applicable with respect to services performed in any pay period by an individual for the person employing him, where any of such service is excepted by Section 19 (g) (5) (B).

(h) "Employment office" means a free public employment office, or branch thereof, operated by this State or maintained as a part of a state controlled system of public employment offices.

(i) "Fund" means the Unemployment Compensation Fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

(j) "Partial Unemployment": An individual shall be deemed "partially unemployed" in any benefit period of less than full-time work if his wages payable for such benefit period fail to equal Four Dollars (\$4) more than the benefit amount he would be entitled to receive if totally unemployed and eligible.

(k) "State" includes, in addition to the States of the United States of America, Alaska, Hawaii, and the District of Columbia.

(l) "Total Unemployment": An individual shall be deemed "totally unemployed" in any benefit period during which he performs no services and with respect to which no wages are payable to him. An individual's benefit period of total unemployment shall be deemed to commence only after his registration pursuant to Section 4 (a) of this Act.⁸ As used in this Subsection (l) and Subsection (j), the term "wages" shall include only that part of remuneration for odd jobs or subsidiary work, or both; which is in excess of Six Dollars (\$6) in any one benefit period, and the term "services" shall not include that part of odd jobs or subsidiary work or both, for which remuneration equal to or less than Six Dollars (\$6) in any one benefit period is payable.

(m) "Valid claim" means a claim filed for benefits by an unemployed individual who has earned qualifying wages as provided in Section 4 (e) of this Act.⁸

(n) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages paid him by his employing unit. The reasonable cash value of all remuneration in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Commission; providing, however, that after October 1, 1941, the term "wages" shall not include:

(1) That part of the remuneration which, after remuneration equal to Three Thousand Dollars (\$3,000) has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year;

(2) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the employee (i) has not the option to receive, instead of provision for such death benefit, any part of such

payment, or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(3) The payment by an employer (without deduction from the remuneration of the employee) (A) of the tax imposed upon an employee under Section 1400 of the Internal Revenue Code⁹ or (B) of any payment required from an employee under a state unemployment compensation law; or

(4) Dismissal payments which the employer is not legally required to make.

(o) "Week" means such period of seven (7) consecutive calendar days as the Commission may prescribe. As amended Acts 1945, 49th Leg., p. 589, ch. 347, § 7.

1 Article 5221b—1 et seq.

2 Article 5221b—6.

3 Article 5221b—9.

4 26 U.S.C.A. § 101.

5 26 U.S.C.A. § 1600.

6 26 U.S.C.A. § 1603.

7 Article 5221b—12.

8 Article 5221b—2.

9 26 U.S.C.A. § 1400.

Effective Sept. 1, 1945.

Art. 5221b—22a. Unemployment compensation special administration fund

There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Special Administration Fund. All interest and penalties collected under the provisions of this Act shall be paid into this fund. Said moneys shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) Federal funds which would, in the absence of said moneys, be available to finance expenditures for the administration of the Texas Unemployment Compensation Act. Nothing in this section however shall prevent said moneys from being used as a revolving fund, to cover expenditures, necessary and proper under the Texas Unemployment Compensation Act, for which Federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The Commission may, by resolution duly entered in its minutes, authorize to be charged against said moneys any expenditures which it deems proper in the interest of good administration of this Act, provided the Commission in such resolution finds that no other funds are available or can properly be used to finance such expenditures. All moneys which are deposited or paid into the Unemployment Compensation Special Administration Fund are hereby appropriated and made available to the Commission and shall be continuously available to the Commission for expenditure in accordance with the provisions of this Act, and shall not lapse at any time or be transferred to any other fund. All moneys in this Unemployment Compensation Special Administration Fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. The State Treasurer shall be liable on his official bond

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

for the faithful performance of his duties in connection with the Unemployment Compensation Special Administration Fund provided herein. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any Surety Bond for losses sustained by the Unemployment Compensation Special Administration Fund shall be deposited in said Unemployment Compensation Special Administration Fund. If it be determined by the Commission in accordance with the provisions of Subsection 14 (j) of this Act¹ that the Commission should refund penalties which have been erroneously collected and which have been deposited in the Unemployment Compensation Special Administration Fund, the refund of such penalties shall be made, without interest, out of the Unemployment Compensation Special Administration Fund, notwithstanding the provisions of Subsection 14 (j) of this Act that payment of all refunds shall be made out of the Unemployment Compensation Fund. Such refunds paid out of the Unemployment Compensation Special Administration Fund shall be paid upon warrants issued by the Comptroller under the direction of the Commission. Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 26, added Acts 1945, 49th Leg., p. 589, ch. 347, § 8.

¹ Article 5221b—12.

Effective Sept. 1, 1945.

Art. 5221b—22b. Title

The body of law originally enacted in Senate Bill No. 5, Chapter 482, General and Special Laws of the Forty-fourth Legislature, Third Called Session, as amended, providing for an unemployment compensation system and an employment service in Texas, shall be known and may be cited as the "Texas Unemployment Compensation Act."¹ Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, § 27, added Acts 1945, 49th Leg., p. 589, ch. 347, § 9.

¹ Articles 5221b—1 to 5221b—22.

Effective Sept. 1, 1945.

TITLE 85—LANDS—ACQUISITION FOR PUBLIC USE**2. FEDERAL USE**

Art.

**5248f. Payments or gifts in lieu of taxes
by federal agencies [New].****2. FEDERAL USE****Art. 5248f. Payments or gifts in lieu of taxes by federal agencies**

Section 1. That all moneys, funds, assets, or gifts authorized by Federal Statute to be paid to the State of Texas in lieu of taxes or as a gift by the Federal Public Housing Authority or any other Federal Agency, be and the same is hereby accepted by the State of Texas; that this acceptance applies to any such tenders, gifts, or offers, whether they be made in the past, present, or future.

Sec. 2. The Comptroller of Public Accounts is hereby directed and authorized to execute such instruments as may be proper or necessary to effect the acceptance of such moneys, gifts, or assets, and when so received by the Comptroller, he shall deposit same in the State Treasury to the credit of the General Revenue Fund.

Sec. 3. The Comptroller may direct that such moneys, when so paid by the Federal Public Housing Authority, be remitted through the county tax assessor-collector in the county where lands are located on which the payment or tender is made in lieu of taxes by such Federal Authority, and require the tax assessor-collector of such county to make remittance to the State Treasury in the same manner as he is now required to do when remitting for ad valorem taxes; but in no event shall any tax assessor-collector or any other county or state official be entitled to any fee for services in handling these funds. Acts 1945, 49th Leg., p. 198, ch. 151.

Emergency. Effective May 4, 1945.

Title of Act:

An Act accepting moneys, funds, gifts, or other assets authorized by Federal Statute and tendered to the State of Texas in lieu of taxes as a gift by the Federal Public Housing Authority, or any other Federal Agency and applying to all such tenders

whether made in the past or in the future; directing the Comptroller to execute such instruments that may be proper and necessary in taking this money into account in the State Treasury and depositing such moneys into the State General Revenue Fund; and declaring an emergency. Acts 1945, 49th Leg., p. 198, ch. 151.

TITLE 86—LANDS—PUBLIC

CHAPTER ONE—ADMINISTRATION

1. THE COMMISSIONER

Art. 5253. Repealed. Acts 1945, 49th Leg., p. 61, c. 42, § 1. Eff. March 23, 1945

Art. 5254. 5391–5392 May print abstracts

The Commissioner of the General Land Office may have not more than fifteen hundred (1500) copies of said Supplementary Abstracts of patented, titled and surveyed lands printed and bound annually for distribution among those officers of the state and counties whose duties require its use, the surplus copies to be sold at a reasonable price to parties applying for them. The costs so incurred shall be paid out of the General Land Office appropriation for printing, and the Commissioner of the General Land Office shall pay all money received from such sales into the Treasury to the credit of the General Revenue Fund. As amended Acts 1945, 49th Leg., p. 61, c. 42, § 1.

Emergency. Effective March 23, 1945.

Section 3 of the amendatory Act of 1945 read as follows:

"That from and after the effective date of this Act, the Commissioner of the General Land Office shall be authorized to distribute to those officers of the state requiring its use, and who have not heretofore received a set, one complete set of Abstract Volumes of patented, titled and surveyed lands in this state provided for in Chapter 291, Acts of the 47th Legisla-

ture, 1941, and shall have the authority to sell the surplus volumes remaining on hand at the effective date of the Act to anyone applying for them at a price of not less than Twelve and 50/100 (\$12.50) Dollars per volume. The Commissioner of the General Land Office shall pay all money so received into the Treasury to the credit of the General Revenue Fund."

Section 4 of the amendatory Act of 1945 repealed all laws or parts of laws in conflict herewith.

CHAPTER FOUR—OIL AND GAS

1. UNIVERSITY AND OTHER LANDS

Art.

5341e. Suspension of running of towns of leases while owner is denied access by United States [New].

3. SOLD ASYLUM AND SCHOOL LANDS

5368b. Pooling state's royalty interest in natural gas with other interests; exceptions [New].

1. UNIVERSITY AND OTHER LANDS

Art. 5341e. Suspension of running of terms of leases while owner is denied access by United States

If the owner of any valid oil and gas lease granted by the State covering University lands is denied access to or is denied a permit to drill upon or produce from the leased premises by any duly constituted authority of the United States of America, after a bona fide attempt has been made by such owner to obtain access or permit to drill upon or produce from the leased premises, and denial of access as used herein shall include agreements by the lessee or his assigns under any such lease with a duly constituted authority of the United States not to enter upon and engage in drilling operations on any such oil and gas lease made under compulsion or threat of condemnation by such duly consti-

tuted authority of the United States, such owner may file with the Board for Lease of University Lands an application describing and giving the date of the action which deprives him of the right of access or the right to drill upon or produce from the premises, and if said Board is satisfied that the facts set forth in the application are true, the Board may enter an order upon its minutes suspending the running of both the primary and the principal term of such lease, or suspending any condition, obligation, or duty thereunder as of the date of the origin of the cause of suspension and during the existence of the cause of suspension, so long as the lessee continues to make on each anniversary date of such lease the annual rental payments stipulated in the lease during the period of suspension. Such oil and gas lease shall remain in status quo, and all obligations and conditions existing during such lease or such of them as may be suspended by said Board, shall be inoperative and of no force and effect, except the obligation to pay delay rentals as provided for herein, until ninety (90) days after the Board for Lease of University Lands shall enter an order upon its minutes reciting that the cause for suspension has ceased to exist, at which time such oil and gas lease shall, provided the rental payments have been made during the period of suspension, again become operative and all of the suspended obligations and conditions, including the payment of rentals under same, shall again attach and be in force, and in the case of the suspension of the primary and/or principal terms of the lease, the lease shall thereafter continue in force for a period equivalent to the unexpired term of the lease on the date or origin of the cause for suspension. The Commissioner of the General Land Office shall give notice immediately to the lessee of the entry of the order that the cause for suspension has ceased to exist; provided, however, that the annual rental payments have been met. Acts 1945, 49th Leg., p. 300, ch. 217, § 1.

Emergency. Effective May 16, 1945.

School Land Board, filing of application with, see art. 5341c.

Title of Act:

An Act providing for the suspension of the running of the primary and principal terms of certain State leases covering University lands by the Board for Lease of University Lands in certain instances, establishing conditions of and procedure governing the making and granting of appli-

cations for such suspension, providing for the suspension of any condition, obligation, or duty under such leases, fixing the duration of such suspension and providing for the termination thereof and for the extension of the primary and/or principal terms of such leases, after the termination of such suspension, for a period equivalent to the period of suspension; providing for notice of termination of the period of suspension; and declaring an emergency. Acts 1945, 49th Leg., p. 300, ch. 217.

3. SOLD ASYLUM AND SCHOOL LANDS

Art. 5368b. Pooling state's royalty interest in natural gas with other interests, exceptions

Section 1. The Commissioner of the General Land Office, with the approval of the School Land Board, is hereby authorized to enter into agreements whereby the royalty interests in natural gas reserved to the State of Texas in any patent or contract of sale or under the terms of any lease executed by an agent of the state under the Relinquishment Act, or the royalty interest in natural gas reserved under the terms of any lease executed and issued by the Commissioner of the General Land Office (except leases covering lands belonging to The University of Texas), are pooled and consolidated with other interests in natural gas so as to form thereby a pooled area for the exploration, development, and production of the natural gas underlying such area.

Sec. 2. The terms of any such agreement shall be fixed by the Commissioner of the General Land Office and approved by the School Land Board, and may contain drilling obligations and production requirements which, when complied with as to the pooled area so formed, will constitute full and complete satisfaction of the drilling and production obligations now required by law or by the terms of any oil, gas and mineral lease on lands within such pooled area; provided, however, that the number of acres included in any such pooled area shall not exceed the number of acres authorized or required, at the time such pooled area is created, to be assigned to any natural gas well under the spacing rules or regulations of the Railroad Commission of the State of Texas or any other regulatory body, State or Federal, having jurisdiction, and shall conform in all other respects with such rules and regulations, and provided further that no such agreement shall be entered into that does not reserve to the state a free royalty on all natural gas produced and saved from such pooled area equivalent to the royalty fixed in the lease or contract under which the state's royalty is created or reserved, multiplied by a fraction whose numerator is a figure equal to the number of mineral acres owned by the state in such pooled area, and whose denominator is a figure equal to the total number of mineral acres included within the pooled area.

Sec. 3. No authority is hereby granted for the Commissioner of the General Land Office and the School Land Board to enter into pooling agreements relating to crude petroleum oil or casinghead gas. "Crude petroleum oil" for the purpose of this statute is defined as any combination of liquid hydrocarbons produced at the mouth of the well by ordinary production methods without resort to the condensation of natural gas after the same leaves the reservoir. "Casinghead gas" is defined as any natural gas produced with crude petroleum oil from the same underground stratum.

Sec. 4. The provisions of this Act are and shall be held and construed to be cumulative of all General Laws of this state on the subject treated of and embraced in this Act when not in conflict herewith, but in case of conflict, in whole or in part, this Act shall control.

Sec. 5. If any section, subdivision, paragraph, sentence, or clause of this Act be held to be unconstitutional, the remaining portions of this Act shall nevertheless be held valid and binding. Acts 1945, 49th Leg., p. 507, ch. 309.

Emergency. Effective June 1, 1945.

Title of Act:

An Act to authorize the Commissioner of the General Land Office, with the approval of the School Land Board, to enter into agreements whereby the State's royalty interests in natural gas reserved in or retained in any patent or contract of sale or under the terms of any lease executed by an agent of the state under the Relinquishment Act or any lease executed and issued

by the Commissioner of the General Land Office, except leases covering land belonging to The University of Texas, are pooled and consolidated with other interests in natural gas so as to form pooled areas; fixing a minimum royalty to be received by the state; repealing all laws in conflict herewith; providing a savings clause; and declaring an emergency. Acts 1945, 49th Leg., p. 507, ch. 309.

CHAPTER SIX—PATENTS

Art.

5411a. Refunds to purchasers and lessees where funds to which payments are accredited are not entitled to the moneys [New].

Art. 5411a. Refunds to purchasers and lessees where funds to which payments are accredited are not entitled to the moneys

Section 1. That upon proper proof as hereinafter provided, the Comptroller of the State of Texas is hereby authorized and directed to draw his warrant in refund of monies paid into the State Treasury on public lands in good faith but where the funds to which such monies may be accredited or may have been accredited, are not entitled thereto in any of the following instances:

(a) Through error made in good faith, to be supported by the official signature of the Commissioner of the General Land Office, or of the Attorney General, to whom such payment is made;

(b) Where the payment is made in accordance with law, but title cannot issue or possession cannot pass, because of conflict in boundaries, erroneous sales, erroneous lease or other cause;

(c) In case of sale of leased lands;

(d) Where lease money has been paid on previous forfeited sales, the same having been reinstated and all interest paid;

(e) Where erroneous timber sales or leases have been made;

(f) Where overpayments have been made in final payments to the State Treasurer due to decreased acreage or other causes;

(g) Where reduction has been made in acreage of timber sold or leased;

(h) Where payments are made or have been made in good faith by claimants of lands in instances where the applicants have no right to purchase said lands as revealed by investigations of titles as provided by law.

Sec. 2. All refunds herein provided for are to be paid out of the respective funds to which said payments have been made or may be accredited after specific appropriations have been made according to law, and all claims for refunds except those embraced in sub-division (a) of Section 1 shall be certified by the certificate of the Commissioner of the General Land Office, and all such claims shall be verified by the affidavit of the claimant and approved by the Attorney General as to the correctness of the claim and as to whom due, provided that the money so paid by any purchasers or lessees in case of sale of land by the purchaser, or assignment of the lease by the lessee after payment of such money, shall be refunded so that such refund shall be paid to the person upon whom the loss falls in case of failure of title, or right of possession. Acts 1945, 49th Leg., p. 190, ch. 145.

Emergency. Effective May 2, 1945.

Title of Act:

An Act providing for the refunding of certain monies paid in good faith by purchasers and lessees or prospective purchasers and prospective lessees of public lands,

minerals or timber, or paid in good faith on transactions in connection with such public lands, minerals and timber in instances where the funds to which such payments are accredited are not entitled to such monies; and declaring an emergency. Acts 1945, 49th Leg., p. 190, ch. 145.

CHAPTER SEVEN—GENERAL PROVISIONS

Art.

5421j. Grant of filled in land to city of Corpus Christi [New].

Art. 5421j. Grant of filled in land to city of Corpus Christi

Section 1. All right, title and interest of the State of Texas in and to all land within the area hereinafter mentioned, hitherto lying and situated under the waters of Corpus Christi Bay for and in consideration of the sum of Ten Thousand Dollars (\$10,000) cash, is hereby relinquished, confirmed and granted unto the said City of Corpus Christi, its successors and assigns, for public purposes, to-wit:

Being all of that filled-in land lying and being situated in Nueces County, Texas, landward behind the seawall and easterly of the shoreline of Corpus Christi Bay as shown in Survey No. 803 and in the patent from the State of Texas to the City of Corpus Christi, Texas, said patent being dated January 4, 1924, and being Patent No. 86, Volume 21-A.

Sec. 2. All exchanges, sales and conveyances hitherto made by the City of Corpus Christi of property within the area described in Section 1 are hereby ratified; and such property is confirmed, relinquished and granted unto the respective assignees of the City of Corpus Christi, and to their heirs, successors, and assigns, without limitation as to the use thereof to be made by them.

Sec. 3. All exchanges of property, sales of property and conveyances thereof that may be made in the future by the City of Corpus Christi of property, within the area described in Section 1, that has been laid out and platted into lots, blocks or tracts for uses of private ownership as shown on a plat of the Bay Front Plan of said City of Corpus Christi, on file in the General Land Office of Texas and that may be necessary to adjust the titles and boundaries between the City and other owners are hereby authorized and said City of Corpus Christi is hereby empowered to make such exchanges, sales and conveyances; and all such property as may be so exchanged, sold and conveyed, is hereby confirmed, relinquished and granted unto the respective assigns of the City of Corpus Christi, and to their heirs, successors and assigns forever, without limitation as to use thereof to be made by them.

Sec. 4. The consideration for this land shall be paid to the Commissioner of the General Land Office of the State of Texas for the benefit of the Permanent Public Free School Fund; and a patent to said lands shall be issued to the City of Corpus Christi by the Governor and the Commissioner of the General Land Office of the State of Texas. Upon the payment of the said consideration and the issuance of said patent, the title of the City of Corpus Christi to the said lands shall become absolute, subject to the reservations herein made.

Sec. 5. All mines and minerals, and the mineral rights including oil and gas are hereby specially reserved to the State under that part of said area described in Section 1, which has been filled, laid out and constructed for use by the City of Corpus Christi as streets, public drives, parks, boulevards, and seawall, and all minerals and mineral rights under the remainder of said land are hereby relinquished and released unto the City of Corpus Christi and its assigns.

Sec. 6. This Act shall be and is cumulative of all former grants and authorities from the State of Texas to the City of Corpus Christi. Acts 1945, 49th Leg., p. 391, ch. 253.

Emergency. Effective May 28, 1945.

Section 7 of the Act of 1945 repealed all acts and parts of acts in conflict therewith.

Title of Act:

An Act to grant, sell and convey to the City of Corpus Christi, Texas, all right, title and interest of the State of Texas to certain land in said City hitherto submerged by the waters of Corpus Christi Bay; ratifying and confirming exchanges, sales and conveyances of property heretofore made within said area; authorizing

and empowering the City of Corpus Christi to make exchanges, sales and conveyances of property within the area and confirming such exchanges, sales and conveyances; fixing the consideration for said grant and providing disposition of said funds, and the issuance of a patent therefor; reserving all minerals unto the State in a portion of said land; declaring that the Act shall be cumulative of former grants and authorities; repealing all laws in conflict herewith; and declaring an emergency. Acts 1945, 49th Leg., p. 391, ch. 253.

TITLE 91—LIMITATIONS

Art. 5520. Actions by vendors and on voluntary mechanic's or materialman's lien; tolling; presumption of payment

All actions for the recovery of real estate by virtue of a superior title retained by the vendor in a deed of conveyance or purchase money note, or for the foreclosure of any vendor's, mortgage, deed of trust or voluntary mechanic's or materialman's lien on real estate, securing a note or other written obligation, shall be instituted, and all sales of real estate in the exercise of a power of sale under a mortgage or deed of trust securing any such lien debts shall be made, within four (4) years after the cause of action shall have accrued, and not afterward.

No time shall be counted out by a toll of limitations under any other Statutes, except Article 5538, Revised Civil Statutes of Texas, 1925, in calculating any aforesaid limitation period invoked by a bona fide purchaser, lien holder or lessee who has no notice or knowledge of any such toll of limitations and acquires his interest in the property at a time when any said lien debt is more than four (4) years past due and there is no written extension of record.

At the expiration of such four (4) year period payment of any such lien debt shall be conclusively presumed to have been made, and the lien for the security of same and any power of sale for the enforcement thereof shall be void and cease to exist, unless said lien is extended by written agreement of the party or parties primarily liable for the payment of the indebtedness, as provided by law; but any such extension agreement shall be a nullity against aforesaid bona fide third persons dealing with said property without actual notice thereof and before same is filed and recorded in the manner provided for the acknowledgment and record of conveyances of real estate.

Where a series of notes or other obligations or one payable in installments is secured by such lien on real estate, the aforesaid limitation period shall not begin to run until the maturity date of said last note, obligation or installment.

Provided that as to any aforesaid cause of action heretofore accrued, where the period of limitation has been tolled or interrupted by any other statute so that the same is not barred by limitation prior to the effective date of this Act, the limitation period applicable thereto shall be either one (1) year from the effective date of this Act or four (4) years from the maturity of the lien debt, whichever is longer. As amended Acts 1945, 49th Leg., p. 441, ch. 278.

Effective 90 days after June 5, 1945, date of adjournment.

Section 2 of the act of 1945 repealed all conflicting laws and parts of laws.

Art. 5537. 5702, 3367, 3216 Temporary absence

Limitations under article 5520 not tolled as to bona fide purchasers, etc., see art. 5520.

CHAPTER SEVEN—WEIGHTS AND MEASURES

Art.

5714a. County sealer; deputies; combining districts [New].

Art. 5714a. County sealer; deputies; combing districts

(1) The Commissioners Court in each county in Texas may in its discretion appoint a county sealer of weights and measures. He shall

be paid a salary to be determined by said Court and no fee shall be charged by him or by the county for the inspecting, testing, or sealing or the repairing or adjusting of any weights, measures, or weighing or measuring devices. Whenever the Court shall deem it necessary, one or more deputy sealers of weights and measures may be appointed to hold office under the same conditions as those specified for the sealer of weights and measures, and the salaries of such deputies shall be fixed as in the case of the sealer of weights and measures. All deputies appointed shall have the same powers and may perform the same duties as the county sealer, when acting under his instructions and at his direction.

(2) All county sealers appointed under the terms of this Act shall have the same power, authority, duties and responsibilities as are conferred upon all State and local sealers, in the performance of their official duties by the laws of this State. The jurisdiction of all county sealers and deputy sealers appointed by the Commissioners Court of any county in this State shall be co-extensive with the limits of said county.

(3) Nothing in this Act shall be construed to prevent two (2) or more counties or a county and a city or cities situated therein, from combining the whole or any part of their districts, as may be agreed upon by the Commissioners Courts of the counties, or such Court of the county and the mayor and the common council of the city or cities, with one set of standards and one sealer. A sealer appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction and duties as if he had been appointed by each of the authorities who are parties to the agreement. Acts 1945, 49th Leg., p. 261, ch. 193, § 1.

Emergency. Effective May 10, 1945.

Section 2 of the Act of 1945 repealed all conflicting laws or parts of laws.

Section 3 of the Act of 1945 read as follows:

"Sec. 3. If any Article, Section, provision, sub-division, or part of this Act should be held invalid for any reason, it is the legislative intent that the remainder of the Act shall remain in full force and effect."

Art. 5732. Standard for liquids; liquid measuring device

The Units or standards of measure of capacity for liquids from which all other measurements shall be derived and ascertained, shall be the standard gallon and its parts designated in this Chapter. The barrel shall constitute 31½ gallons and two barrels shall make a hogshead. All other measures of capacity for liquids shall be derived from the liquid gallon by continual division by the number two, so as to make half gallons, quarts, pints, and half pints and gills. Provided, however, that a liquid measuring device which indicates fractional parts of a gallon shall indicate such fractional parts in terms of binary sub-multiple sub-divisions or in terms of tenths of a gallon.

For the purposes of this Article, the term "liquid measuring device" shall be construed to mean a mechanism or machine adapted to measure and deliver liquid by volume. As amended Acts 1945, 49th Leg., p. 146, ch. 96, § 1.

Emergency. Effective April 25, 1945.

TITLE 94—MILITIA—SOLDIERS, SAILORS AND MARINES

CHAPTER THREE—NATIONAL GUARD

ADJUTANT GENERAL

Art.

5798a—1. New; repealed.

5798a—2. Veterans county service office
[New].

ADJUTANT GENERAL

Art. 5798a. Veterans' State Service Officer

Section 1. There is hereby created the office of Veterans' State Service Office of the State of Texas to be composed of a Veterans' State Service Officer, who shall receive a salary, as provided in the Biennial Appropriation Act, to be paid in twelve (12) equal monthly installments; and such Assistant Veterans' State Service Officers as shall hereafter be appointed, each Assistant Veterans' State Service Officer stationed at each regional office and/or combined facility of the United States Veterans' Administration, shall receive a salary, as provided in the Biennial Appropriation Act, to be paid in twelve (12) equal monthly installments; and each of the other Assistant Veterans' State Service Officers shall receive a salary, as provided in the Biennial Appropriation Act, to be paid in twelve (12) equal monthly installments; and such office personnel as shall hereafter be employed, at such salaries as shall be fixed by the Legislature, to be attached to the Adjutant General's Department of the State of Texas. All salaries, travel and other expenses to be paid by warrants approved by the Adjutant General. As amended Acts 1945, 49th Leg., p. 219, ch. 163, § 1.

Emergency. Effective May 7, 1945.

Appointment of assistants; qualifications

¹ The Legislature, in its regular biennium appropriation bill, shall determine the number of Assistant Veterans' State Service Officers, and such additional employees as may be determined to be necessary, and when so determined, the Adjutant General, with the advice and consent of the Governor, shall make such appointments, who shall be appointed to serve for a term of two (2) years, commencing at the beginning of the biennium, and shall serve for said biennium unless removed for cause.

In no event shall any officer or employee be appointed unless authorized in the regular biennium appropriation bill. Such Veterans' State Service Officer and such Assistant Veterans' State Service Officers shall be qualified by education and training for the duties of such offices. They shall be experienced in the law, regulations, and rulings, of the United States Veterans' Administration controlling the cases coming before them, and shall have served in the active military, naval, or other armed forces or nurses corps of the United States sometime during the period between April 6, 1917, and November 11, 1918, or between April 24, 1898, and July 4, 1902, or after September 16, 1940 and prior to the termination of hostilities in the present war, and have been honorably discharged therefrom. Such person shall have a certificate of qualification or competence issued by the director of the Veterans' State Service Office of Texas, or shall have had at least two (2) years experience as a service officer in a nationally recognized veterans' organization engaged in service work to war veterans, as such term is defined by the United

States Veterans' Administration, either as a Post, State Department or National Service Officer, which shall be evidenced by a statement of qualifications filed by the individual seeking appointment, with the Adjutant General, upon forms supplied by the Adjutant General, which shall be certified to by the State Commander of the veterans' organization to which such applicant shall belong, and a certificate issued by the United States Veterans' Administration showing that applicant is authorized to appear on behalf of claimants before the rating boards and/or other boards and/or Departments of the United States Veterans' Administration. Such statement of qualifications and supporting certificates shall be filed with the Adjutant General fifteen (15) days before said appointments are made, and the filing thereof shall be a condition precedent to appointment. As amended Acts 1945, 49th Leg., p. 219, ch. 163, § 1.

1 Probably should read "Sec 2".

While the Act of 1945 entitled "An Act amending Chapter 141, Acts 40th Legislature, Regular Session, as amended by Chapter 246, Acts 42nd Legislature, Regular Session and House Bill No. 321, Regular Session, 45th Legislature, and Chapter 21, Acts 45th Legislature, First Called Session, to include persons who served in the active military, naval or other armed forces or nurses corps of the United States on or after September 16th, 1940 and prior to the termination of hostilities in the present war; providing for a certificate of qualification or competence issued by the Director

of the Veterans' State Service Office of Texas as a qualification for Assistant Veterans' State Service Officers; and declaring an emergency", purports to amend entire chapter 141, Acts 1927, as amended, it would seem that the first two sections only were intended to be amended, as indicated by the title showing the purpose to be to bring in persons in the armed forces during the present war. Accordingly the Act of 1945 is treated as an amendment of sections 1 and 2 of this article only, leaving sections 3, 4 and 5 unaffected.

Art. 5798a—1. Repealed. Acts 1945, 49th Leg., p. 16, c. 12, § 8. Eff. Feb. 28, 1945

Section was derived from Acts 1943, 48th Leg., p. 557, ch. 330, and related to Veterans County Service Officer.

Art. 5798a—2. Veterans county service office

Section 1. 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 the 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 Officer, 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 of such Veterans County Service Officer and/or Assistant Veterans County Service Officer 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 Two Hundred Seventy-five (\$275.00) Dollars per month and no salary paid to any such Assistant Veterans County Service Officer shall exceed the sum of Two Hundred (\$200.00) Dollars 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.

Appointment of officers; term; qualifications

Sec. 2. Such Veterans County Service Officer and/or Assistant Veterans County Service Officer 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 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 during the Spanish American War, World War I or World War II, for a period of at least four months, and have been honorably discharged from such service. Such persons shall have had at least two years' experience as a Service Officer in a nationally recognized veterans organization engaged in service work to veterans, as defined by the United States Veterans Administration, either as a Post, State, Department, or National Service Officer, which shall be evidenced by a statement of qualifications filed by the individual seeking appointment, with the County Commissioners Court, upon forms supplied by the Veterans State Service Officer of the State of Texas, which shall be certified to by the State Commander of the veterans organization to which such applicant shall belong, or shall have had one year's experience as a County Service Officer or Assistant County Service Officer, or shall have been given a certificate by the Veterans State Service Officer, who is hereby authorized to prescribe the training and qualifications required for the issuance of such certificate. A statement showing that applicant possesses one or more of the above qualifications, accompanied by supporting certificate, 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.

Duties; fees forbidden

Sec. 3. 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 Veterans 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 an attorney to one national service organization over that of another.

Entry into records of institutions

Sec. 4. 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 Prison Board 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.

Joint employment by two or more counties

Sec. 5. 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. Acts 1945, 49th Leg., p. 16, c. 12.

Emergency. Effective Feb. 28, 1945.

Section 6 of this Act repealed all conflicting laws and parts of laws.

Section 7 of this Act read as follows:

"If any section, sentence, clause or part of this Act is for any reason held to be invalid, such decision shall not affect the remaining portion of this Act, and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause or part thereof irrespective of the fact that any other sentence, section, clause or part thereof may be declared invalid."

Title of Act:

An Act creating the office of Veterans County Service Office; providing for the employment of Veterans County Service Officers and Assistant Veterans County Service Officers; authorizing the maintenance and operation of such office by the Commissioners Court; authorizing the appointment by the Commissioners Court of a Veterans County Service Officer and Assistant Veterans County Service Officers

and other necessary personnel; defining the qualifications, authority and duties of such officers; authorizing the fixing of salaries of such officers and personnel by the Commissioners Court and providing that the salaries and travel expenses of such officers and personnel and other expenses of such office so maintained may be paid out of the general funds of the county on order of the Commissioners Court; providing for the term of such officers and personnel; granting the right of such officers to official entry into the records of the eleemosynary and penal institutions of the State of Texas; authorizing the maintenance and operation of such office and the employment of such officers and personnel and the fixing of the salaries and payment of expenses jointly by agreement of one or more counties; repealing all laws and parts of laws in conflict; repealing Chapter 330, page 557 of the Acts of the Regular Session of the 43rd Legislature; and declaring an emergency. Acts 1945, 49th Leg., p. 16, c. 12.

CHAPTER FIVE—TEXAS DEFENSE GUARD [NEW]

Art. 5891b. Workmen's Compensation Insurance for members of Texas Defense Guard

Expiration date of act

Sec. 18. This Act shall expire at twelve o'clock midnight August 31, 1947, except as to liabilities already incurred under this Act on or before that date. As amended Acts 1945, 49th Leg., p. 150, ch. 100, § 1.

Emergency. Effective April 26, 1945.

TITLE 96—MINORS—REMOVAL OF DISABILITIES OF

Art.

5921a. Minors honorable discharged from
armed forces [New].

Art. 5921a. Minors honorably discharged from armed forces

In addition to and cumulative of the provisions of Article 5921, minors above the age of eighteen (18) years who have been honorably discharged from the Armed Forces of the United States, where it shall appear to their material advantage, may have their disabilities of minority removed, and be thereafter held, for all legal purposes, of full age, except as to the right to vote. Added Acts 1945, 49th Leg., p. 453, ch. 284, § 1.

Emergency. Effective May 21, 1945.

Title of Act:

An Act to amend Title 96 of the Revised Civil Statutes of Texas of 1925, relating to the removal of disabilities of minors, so as to provide that minors above the age of eighteen (18) years who have been dis-

charged from the Armed Forces of the United States may have their disabilities of minority removed under certain conditions; providing that this Act shall be cumulative; and declaring an emergency. Acts 1945, 49th Leg., p. 453, ch. 284.

TITLE 99—NOTARIES PUBLIC

Art. 5949. 6002, 3503 Notary Public Act of 1943

1. The Secretary of State of the State of Texas shall appoint a convenient number of Notaries Public for each county of the State. Such appointments may be made at any time, and the terms of all appointments made shall end on the first day of June of each odd numbered year. As amended Acts 1945, 49th Leg., p. 393, ch. 254, § 1.

Emergency. Effective May 28, 1945.

2. To be eligible for appointment as Notary Public for any county, a person shall be a citizen of this State and at least twenty-one (21) years of age, and a resident of the county for which he is appointed; provided, that where such person resides within the limits of any incorporated city, town or village located in two counties, said person may be appointed Notary Public for either of such counties, but shall be authorized to act only in the county for which such appointment is made; provided, further that nothing herein shall invalidate any commission as Notary Public which has been issued and is outstanding at the time this Act becomes effective. As amended Acts 1945, 49th Leg., p. 674, ch. 373, § 1.

Emergency. Effective June 4, 1945.

TEX.ST.SUPP. '45—19

TITLE 102—OIL AND GAS

GENERAL PROVISIONS

Art. 6008. 7849 Production and use of natural gas

Interstate Compact to Conserve Oil and Gas as extended to Sept. 1, 1947, see article 6008—1 and notes thereto.

Art. 6008—1. Interstate Compact to Conserve Oil and Gas; Extension of Compact

Complementary Laws	(Smith-Hurd Stats. ch. 104, § 24); Kansas
Extension to Sept. 1, 1947: Resolution of Congress July 7, 1943, c. 194, 57 Stat. 383; Illinois Laws 1943, vol. 1, p. 952	Laws 1943, ch. 211; Montana Laws 1945, c. 121; Ohio L.1943, p. 203; Florida Laws 1945, c. 22823.

NATURAL GAS

Art. 6053. Regulation of utilities**Equipment for storing and dispensing liquified petroleum gases**

Sec. 3. All containers and pertinent equipment used or to be used in this state for the storage, transporting and/or dispensing of liquefied petroleum gases, by either industrial, commercial and/or domestic users, together with appliances used or to be used in this state with liquefied petroleum gases as a fuel, shall be designed, constructed, assembled, equipped and installed as specified by the rules and regulations of the Railroad Commission, adopted and/or promulgated as provided in this Act.

Violations of section

Sec. 4. The selling or exposing for sale, or constructing, or assembling, or repairing, or equipping, or installing, or filling with fuel, or storage of fuel within, or dispensing of fuel therefrom, or transporting fuel within such containers and/or pertinent equipment, and the selling or exposing for sale or using of such appliances using or to use liquefied petroleum gas as a fuel, without same having been designed, constructed, assembled, and equipped as specified by the rules and regulations of the Railroad Commission as provided for in this Act, shall be a violation of this Act and shall be subject to all fines, penalties and restrictions provided in this Act and Title 102, Revised Civil Statutes of Texas, 1925, as amended. The use of the term "fuel" herein means "liquified petroleum gases".

Penalties

Sec. 5. In addition to and supplemental of injunctive relief and other penalties provided, any violation of this Act and/or the rules and regulations of the Railroad Commission promulgated hereunder, shall constitute a misdemeanor and be punishable in any court of competent jurisdiction by a fine of not less than Five (\$5.00) Dollars and not more than Two Hundred (\$200.00) Dollars. Each day such violation continues shall constitute a separate offense and be punishable as such.

**Rules and regulations; exceptions; Cooperation by Department of
Public Safety**

Sec. 6. In the manner provided in Section 4 of this Act, the Railroad Commission of Texas shall have full power and authority to adopt and promulgate such rules and regulations as shall be reasonably necessary to carry out the purpose of this Act and for the protection, health, welfare and safety of the public and persons using such materials and shall be in substantial conformity with generally accepted standards of safety concerning the same subject matter, such as the regulations recommended by the National Fire Protection Association and adopted and published by the National Board of Fire Underwriters. In addition to all other rules and regulations, the Railroad Commission shall be required to prescribe that trucks or trailers on which are mounted bulk tanks with facilities for unloading liquefied petroleum gas contents into other containers shall be so arranged that all rigid pipes or valves are recessed or otherwise protected by heavy guard rails to afford maximum protection against breaking off or dislocating said pipes or valves in case of an accident. Containers subject to the regulations of the Interstate Commerce Commission and containers which are owned or used by the Government of the United States of America are excepted from the provisions of this section. Provided, however; that nothing herein shall be construed to alter, modify, or amend the Motor Carrier Law of the State of Texas. The Department of Public Safety of the State of Texas shall cooperate with the Railroad Commission of Texas in the enforcement of the provisions of this Act.

Nothing contained in this Act shall apply to the sale in the ordinary course of business of any part of any appliance which may be employed for uses other than as an integral part of a liquefied gas system when the seller does not service, make repairs or permanent connection to any such liquefied gas system, as long as said appliance or container is approved under the standards set by the Railroad Commission of Texas. Nor shall this Act apply to containers subject to the regulation of the Interstate Commerce Commission, and containers which are owned and used by the Federal Government.

License; safety and protection of public

Sec. 7. (1) No person, firm or corporation shall engage in this state in the manufacturing, and/or assembling, and/or repairing, and/or selling, and/or installing of containers to be used with liquefied petroleum gases as a fuel, nor shall such person, firm, or corporation engage in the sale, transportation, dispensing or storage of liquefied petroleum gases within this state, except where stored by the ultimate consumer for consumption only, without having first obtained from the Railroad Commission of Texas under the provisions of this Act a license so to do. Applications for such licenses shall be in writing and shall contain such information as the Commission shall prescribe. No such license shall be issued until a hearing is had thereon and the Commission has determined that the applicant has made good and sufficient proof that he can and will meet all safety requirements provided in this Act and by the rules and regulations of the Railroad Commission, and the Commission finds that such applicant is qualified and the evidence adduced justifies issuance of such license. The Railroad Commission shall have the authority to promulgate rules and regulations for the safety and protection of the public.

Employment of qualified person

Sec. 8. Provided further, that the Commission shall have the authority to require every person, firm or corporation who makes installations or repairs of containers, equipment, and/or appliances, or firms, persons or corporations using installation men, service men, and repair men, to have at least one person in their regular employ or organization who shall prove through an examination given by the Railroad Commission that he has a thorough knowledge and understanding of the containers, appliances and equipment they intend to install; and providing further that he is competent and qualified to properly install, service and/or repair such containers, appliances and equipment; such examination to be based upon recognized standard codes and practices as promulgated by the Railroad Commission. Persons, firms, corporations or associations who handle appliances exclusively for use with natural gas, and who do not offer their appliances for sale or use with liquefied petroleum gases, are exempted from the provisions of this Act.

License of present operators

Sec. 9. Provided further, that any operator or dealer in this state for which application is made who was in bona fide legal operation on and subsequent to May 1, 1945, upon written application for such license made to the Commission within sixty (60) days from the effective date of this Act, the Commission shall issue to such applicant, upon satisfactory proof that such operator or dealer was in bona fide legal operation in the state on May 1, 1945, and had been so continuously since such time, a license authorizing the continuance of such operation; and pending determination of such application the continuance of such operation shall be lawful; provided, same shall be subject to compliance with the terms and provisions of this Act.

Annual fees

Sec. 10. For the purpose of defraying the expenses of administering this Act, each person, firm, corporation or association engaged in one or more of the pursuits named in subsection (1) of this section, except as otherwise provided in this subsection, shall at the time of issuance of such license, and annually thereafter, on or between September 1st and September 15th of each calendar year pay to the Railroad Commission a special fee of Twenty-five (\$25.00) Dollars; except that each person, firm, or corporation who operates a truck or trucks in the wholesale or retail delivery of liquefied petroleum gas, shall at the time of issuance of such license, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay to the Railroad Commission a special fee of Fifty (\$50.00) Dollars, and when such fifty dollar fee is paid, said firm or corporation shall not be liable for the payment of the Twenty-five (\$25.00) Dollar fee as provided herein.

If the license here provided for is issued after the month of September of any year, all fees shall be prorated to the remaining portion of the year to August 31st following, but in no case less than one-fourth of the total annual fee.

Bonds and insurance

Sec. 11. No license shall be issued pursuant to this section, unless such licensee shall first file with the Commission a surety bond in the sum of Two Thousand (\$2,000.00) Dollars with a bonding company authorized to do business in Texas. All such bonds shall provide that the obligator therein will indemnify and pay the State of Texas, to the extent of the face amount thereof, all judgments which may be recov-

ered in the name of the State of Texas against such licensee, during the term of such bond and proximately caused by any violation, by said licensee, of the terms of this Act or any orders or rules promulgated by the Railroad Commission as authorized by this Act.

In addition to the bond herein required, such licensee shall be obligated to procure from some reliable insurance or surety company qualified to do business in the State of Texas, and keep same in force so long as they shall continue in business, a policy of insurance or surety bond which shall guarantee the payment of all damages which proximately result from any act of negligence, while engaging in any of the activities as herein provided, on the part of said licensee, their agents and employees, to both the employees of said licensee and also to the public generally, said policy or bond to be in the sum of not less than Ten Thousand (\$10,000.00) Dollars for personal injury for any one accident, and not less than Five Thousand (\$5,000.00) Dollars for property damage for any one accident. Provided that this section shall not be applicable unless and until such bonds or policies of insurance are available for purchase and further provided that such bonds or policies of insurance shall be approved by the Railroad Commission of Texas.

Refusal or cancellation of license

Sec. 12. The Commission shall have the power and authority, and it shall be its duty, to refuse to grant a license to any applicant, or to cancel the license of any licensee, if it shall appear to the Commission, upon hearing as herein provided, that such applicant or licensee has violated or failed to comply with any provision of the Act.

Investigations; revocation or suspension of licenses

Sec. 13. Upon receipt of written complaint, in such form as it may prescribe, from one of its own authorized representatives, stating that a licensee hereunder has wilfully or negligently violated or failed to comply with any of the provisions of this Act, the Commission is authorized and empowered, and its duty shall be, to hold a hearing under the provisions of this Act, and under such rules and regulations not inconsistent therewith as the Commission may prescribe, to consider such complaint. If at such hearing the Commission finds that such licensee has violated or failed to comply with any of the provisions of this Act, then the Commission shall revoke or suspend such license as it may find the ends of justice will be better subserved. The Commission is authorized and empowered to investigate on its own motion any matters pertaining to the subject of this Act, and shall have the power to hold such hearing as it may deem necessary therefor, to summon and compel the attendance of witnesses, to require the production of any records or documents deemed by it to be pertinent to the subject matter of any investigation, and to provide for the taking of depositions of witnesses under such rules as it may prescribe.

Notice of hearings; right to be heard

Sec. 14. Notice of any hearing, and of the time and place thereof, shall be given by registered mail not less than ten (10) days exclusive of the day of mailing before such hearing, addressed to all parties whom the Commission may deem to be interested in the subject matter of such hearing. Any licensee against whom a complaint has been filed shall be notified of the hearing on such complaint as herein provided, and shall have the right to appear at such hearing, file answer, introduce evidence, and be heard both in person and by counsel.

Findings and judgment; Action for reinstatement

Sec. 15. At the conclusion of any hearing held to consider a complaint filed against any licensee hereunder, the Commission shall enter its findings and judgment in writing, and the same shall be recorded in a permanent record to be kept by the Commission, and a copy thereof shall be furnished to the licensee complained against. Any licensee whose license is cancelled or suspended by the Commission, may within thirty (30) days after such cancellation or suspension, and not thereafter, file an action for reinstatement against the Commission in the District Court of the residence of the licensee or applicant for license, and such appeal to said District Court shall be a trial de novo, and such trial on appeal shall be the same as if such suit had been filed originally in said court. If any licensee whose license has been cancelled or suspended by the Commission shall, within ten (10) days after the receipt of information of such cancellation or suspension, give notice in writing to the Commission of his intention to file such suit, the action of the Commission in suspending or cancelling such license shall be suspended for a period of thirty (30) days; but unless suit shall be filed within such time, the action of the Commission shall be final. If suit shall be filed against the Commission to re-instate such license within such time, the action of the Commission shall remain suspended until the validity of the license in question shall be determined by the court in said suit.

Procedure on refusal of license

Sec. 16. The same procedure, rights and penalties, as herein specified in cases of revocation or suspension of licenses are available, where applicable, in cases where the Commission refuses to grant a license. No formal notice of hearing on an application for license need be given applicant, other than that he be given a reasonable opportunity to appear in support of his application before the Commission renders its order refusing him a license. Appeal shall be to the District Court of the residence of the applicant in all cases where an application for a license hereunder is denied, subject to the same limits and restrictions as in cases of appeals from revocations and suspensions.

Witnesses; books, papers and documents

Sec. 17. For the purpose of enabling all parties to procure the personal attendance of witnesses in any suit brought in the District Court of Travis County, Texas, as provided in this Act, and in Title 102, Vernon's Annotated Revised Civil Statutes of the State of Texas, for purposes of injunctive relief, for collections of penalties, or for appeal from an order of the Commissioners, the clerk of said court when such suit or appeal is pending, on the application of the Attorney General or any of his assistants, or on the application of any other party to said suit, shall issue a subpoena for any witness or witnesses who may be represented to reside within any county in the State of Texas, or to be found therein at the time of the trial; provided the clerk shall not issue subpoenas in excess of five (5) to compel the attendance of state witnesses or a like number to compel the attendance of defense witnesses, without first obtaining a written order from the trial judge. Should any witness, summoned as aforesaid, fail to appear and testify in said case, he shall be guilty of contempt of court and may be fined not exceeding One Hundred (\$100.00) Dollars, and may be attached and imprisoned in jail until he shall attend said court in person and testify as to all facts within his knowledge with reference to the matter inquired about; provided, however, that any witness who resides out

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

of the county where such suit is pending shall not be required to attend said court and testify in person until the party or parties requesting his testimony shall have tendered him, if requested by said witness, sufficient money to defray his actual traveling expenses, not exceeding Four Cents (4¢) per mile going to and returning from the court by the nearest practical conveyance, and Two (\$2.00) Dollars per day for each day he may necessarily be absent from home as a witness in such cases. In case the state is the party requesting the personal attendance of such witness, such expenses shall be paid in the same manner as costs in felony cases. All books, papers, documents, etc., desired as evidence may be produced in the above provided manner.

Disposition of fees

Sec. 18. All fees received by the state from licenses issued under this Act shall be made available to the Railroad Commission for use in paying the legitimate expenses incurred in administering and enforcing the provisions of this Act, and for no other purpose; provided, however, that any excess funds remaining at the end of each two-year period shall go to the General Fund.

Non-compliance with order, rule or regulation

Sec. 19. The failure of any person or persons, firm or corporation, municipal or otherwise, or any association engaged in manufacturing, distributing, storing, or handling such gases in this state or, manufacturing, selling, installing, using, fueling, or refueling such containers and pertinent equipment as set out in this Act, within forty-eight (48) hours after the receipt of any order of the Commission, to comply fully with this Act or any such order, rule, or regulation, shall be a violation of this Act, subjecting such person, or persons, and the officers and executives of such named concerns to a penalty of One Hundred (\$100.00) Dollars for each day that they shall fail to comply with such Act; and the Attorney General is empowered to bring suit for the collection of the same in the District Court of Travis County, Texas. As amended Acts 1945, 49th Leg., p. 629, ch. 358, § 1.

Amendment of 1945 to sections 3-19 effective 90 days after June 5, 1945, date of adjournment.

Section 2 of the act of 1945, read as follows: "If any clause, provision, section, or part of this Act shall be adjudged by any court of competent jurisdiction to be in-

valid, such judgment shall not invalidate any other term or provision hereof and the Legislature hereby declares its intention to re-enact each and every clause, requirement, provision and part hereof independently of any such part so invalidated."

See, also, notes under article 6053a.

Art. 6053a. See Article 6053

This article incorporated sections 2, 2a, 2b, 3, 4 and 5 of article 6053 as amended by Acts 1939, 46th Leg., p. 501, § 1. As subsequently amended and renumbered by Acts

1945, 49th Leg., p. 629, ch. 358, § 1, sections 2, 2a, 2b and 3 are incorporated in article 6053 as sections 2-19.

TITLE 103—PARKS

5. COUNTY PARKS

6079a. Blank.

6079b. Community parks in counties of specified population [New].

5. COUNTY PARKS

Art. 6079a. Blank

Art. 6079b. Community parks in counties of specified population

In counties owning and maintaining community parks prior to 1941, and having a population of 50,000 to 78,000 inhabitants according to the last preceding Federal Census, the Commissioners Court is authorized to maintain and operate said parks provided said maintenance and operation expenses shall not exceed Two Thousand Dollars (\$2,000.00) in any one year, and shall be paid out of the General Fund of the county. Added Acts 1945, 49th Leg., p. 658, ch. 365, § 1.

Emergency. Effective June 25, 1945.

TITLE 105—PARTNERSHIPS AND JOINT STOCK COMPANIES

CHAPTER ONE—PARTNERSHIP—LIMITED

Art. 6118. 6134, 3591 Terms to be published

The partners shall publish such of the terms of the partnership as are required by Article 6113 to be set forth in the certificate once in each week for four (4) consecutive weeks after such registry, in such newspaper as shall be designated by the clerk in whose office such registry shall be made; and if such publication be not made the partnership shall be deemed general. As amended Acts 1945, 49th Leg., p. 312, ch. 227, § 1.

Emergency. Effective May 23, 1945.

TITLE 106—PATRIOTISM AND THE FLAG**Article 6145—1. Governor James Stephen Hogg Memorial Shrine**

Article I. There is hereby created a Governor James Stephen Hogg Memorial Shrine to be located at Quitman, Wood County, Texas, upon lands furnished for such purpose without cost to the State of Texas.

Article II. The affairs of such Memorial Shrine shall be administered by a Commission of three, which Commission shall be designated as the 'Governor James Stephen Hogg Memorial Shrine Commission'. The members of such Commission shall be appointed by the Governor and shall hold office for a term of six years, and until their successors are appointed and have qualified; at the expiration of the terms of the present Commissioners, the Commission members first appointed shall serve for two years, four years and six years respectively. The Governor shall designate which appointee shall serve the two-year, four-year and six-year terms respectively. Appointment of such Commissioners by the Governor shall be with the advice and consent of two-thirds of the Senate present.

Article III. The "Governor James Stephen Hogg Memorial Shrine Commission" is authorized and empowered to accept on behalf of the state, gifts of every nature and kind, including real estate, to be used in connection with the Shrine, and is empowered to accept gifts and loan of items for exhibition dealing with Texas history and the life of James Stephen Hogg, and to administer the affairs of such Memorial Shrine, and make rules and regulations for the administration thereof; and is empowered to construct such buildings and improvements as it may deem necessary in connection with the Memorial Shrine, subject to legislative limitation, and hire such personnel upon such terms as it deems advisable to carry out the duties of the Commission in connection with the building, construction or exhibition of historical matter and advertising the Shrine. Provided, however, any appropriation made by the Legislature shall be extended as directed in the appropriation Act. As amended Acts 1945, 49th Leg., p. 535, ch. 324, § 1.

Emergency. Effective June 12, 1945.

TITLE 107—PAWNBROKERS AND LOAN BROKERS**Art. 6165a. Loan brokers and regulations**

Sec. 2. A loan broker is a person, firm, or corporation, other than a lending institution subject to supervision or examination by the Department of Banking of the State of Texas, who pursues the business of lending money, purchasing salaries and taking for security for the payment of such loans and interest thereon an assignment of wages or assignment of wages with Power of Attorney to collect the same or other order for unpaid chattel mortgage or bill of sale upon household or kitchen furniture. As amended Acts 1945, 49th Leg., p. 266, ch. 195, § 1.

Emergency. Effective May 10, 1945.

TITLE 108—PENITENTIARIES**1. PRISON COMMISSION****Art. 6166g. Control of prison system**

Acts 1945, 49th Leg., p. 378, ch. 242, §§ 1-3, authorized the Prison Board to sell to the City of Huntsville at private sale for cash 630 acres of land, part of the Warren Birdsell League, Abstract No. 6, in Walker County, Texas.

Act 1945, 49th Leg., p. 380, ch. 244, §§ 1-3, authorized the Prison Board to purchase 190.4 acres of land, part of the P. Gray League, Abstract No. 24, in Walker County, Texas, and to pay therefor from the consideration received for the sale of land to the City of Huntsville.

Art. 6166v. Commutation for good conduct

Commutation of time, see, also, article 6184f.

2. REGULATIONS AND DISCIPLINE**Art. 6184f. Commutation for good conduct**

In order to encourage prison discipline, a distinction may be made in the treatment 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 prison rules and extension of social privileges as may be consistent with proper discipline. Commutation of time for good conduct, industry and obedience shall be granted by the General Manager and twenty (20) days per month deduction shall be made from the term or terms of sentences of all prisoners in Class I and ten (10) days per month deduction shall be made from the term or terms of sentences of all prisoners in Class II as hereinafter provided, when no charge of misconduct has been sustained against a prisoner. A prisoner under two (2) or more cumulative sentences shall be allowed commutation as if they were all one sentence. For each 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 General Manager upon the recommendation of the Classification Committee and/or the Disciplinary Committee unless, in case of escape, the prisoner voluntarily returns without expense to the state, such forfeiture shall be set aside by the General Manager. No overtime allowance or credits, in addition to the commutation of time herein provided for good conduct, may be deducted from the term or terms of sentences with the exception that for extra meritorious conduct on the part of any prisoner, he may be recommended to the Board of Pardons and Paroles and to the Governor for increased commutation or for a pardon or parole.

This Act shall not take effect in the cases of those prisoners who at the time this Act takes effect are being credited with more than twenty (20) days per month by virtue of overtime job assignments except upon removal from such assignment because of misconduct, escape, or return to prison because of violation or clemency; provided, however, should any prisoner be removed from any such assignment because of misconduct, an appeal shall lie to the Disciplinary Committee, and in the event of an adverse decision by said Disciplinary Committee, the prisoner so removed by reason of misconduct shall have the right of appeal to the Texas Prison Board, whose decision shall be final.

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

When present overtime job assignments carrying more than twenty (20) days per month credit are vacated by the present incumbent for any reason, said job assignment shall not be renewed for a credit of more than twenty (20) days per calendar month.

The Classification Committee, as soon as practicable, shall classify all prisoners according to their industry, conduct and obedience in three (3) classifications: Class I, Class II, Class III; which Classification Committee at any time and from time to time as in their opinion the circumstances may require. The General Manager shall keep or cause to be kept a conduct record in card or ledger form and a calendar card on each inmate showing all classifications, changes of classifications and forfeitures of commutation of time and reasons therefor. As soon as practicable, the General Manager shall change the conduct records of prisoners now in the penitentiary to conform with said conduct record and calendar card. The Classification Committee referred to in this Act shall be appointed and created by the Prison Board and shall consist of: the Warden, General Manager, Classification Director, Chaplain, Assistant Warden, and a doctor. The Disciplinary Committee referred to in this Act shall be created by act of the Prison Board, and shall be composed of: the Warden, Chaplain, a psychologist, and/or a representative of the Classification Committee. As amended Acts 1945, 49th Leg., p. 245, ch. 180, § 1.

Emergency. Effective May 9, 1945.

Commutation of time, see, also, art.

Section 2 of the amendatory Act of 1945 repealed all conflicting laws and parts of laws.

6166v.

TITLE 109—PENSIONS**1. STATE AND COUNTY PENSIONS****Art. 6221. 6279 Appropriation, how allotted**

On the first day of each calendar month the Comptroller shall pay to each married Confederate veteran who is living with his wife, a pension of One Hundred and Fifty Dollars (\$150) per month for as long as they both may live, and after the death of either party, then the said veteran, or his widow still living, shall only draw an amount equal to other veterans or their widows. To each veteran now unmarried, or a widower, who is drawing a pension, or whose application may hereafter be approved, shall be paid the sum of One Hundred Dollars (\$100) per month for each year. To each widow who is now drawing a pension, or whose application may hereafter be approved, shall be paid the sum of Fifty Dollars (\$50) per month for each year; provided that any person who has been granted a pension, and who is thereafter admitted as an inmate of the Confederate Home of this State, shall thereafter be entitled to receive pension payment of the amount of one-half ($\frac{1}{2}$) of the pension that such person would be entitled to receive if not an inmate of such Home. (All pensions shall begin on the first day of the calendar month following the approval of the application.) As amended Acts 1945, 49th Leg., p. 452, ch. 283, § 1.

Emergency. Effective May 31, 1945.

2. CITY PENSIONS**Art. 6243a. Pensions for firemen and policemen in cities of 293,000 to 375,000****Who may share in fund**

Sec. 6. Any person who, at the establishment of said Fund, or thereafter, shall have been duly appointed and enrolled in the Fire Department, Police Department, or Fire Alarm Operators' Department of any such city or town, and who has signed an application for participation in said Fund, and has allowed deductions from his salary under any former law and still in good standing, and who has filed written application within thirty (30) days after the organization of such Board, or who shall file his application within sixty (60) days after becoming an active member of such Departments, and after he shall have served the usual probationary period, if any, and who shall have allowed such deductions from his salary; and in addition to the membership provided herein, any person heretofore duly appointed or enrolled in the Fire Department, Police Department, or Fire Alarm Operators' Department of any such city or town who is not now a member of the Pension Fund, may file his application with the Board within sixty (60) days after this Act becomes effective and apply for participation therein; provided, however, that such applicant shall pass a physical examination of the same character that is required for original admission into the respective Department in which he serves, and provided, that he shall pay into such Fund a sum of money equal to the amount of salary deductions he would have paid had he joined immediately upon becoming eligible to participate in the benefits of said Fund; as well as the beneficiaries hereinafter named shall be entitled to participate in said Fund.

When any incorporated city containing the number of inhabitants stated in Section 1 of Chapter 33, Acts of the Regular Session of the 47th Legislature,¹ is consolidated under one government with any other municipality which has maintained a fully paid Fire and Police Department, all permanent policemen and firemen duly appointed or enrolled in the Fire Department or Police Department of the city or town surrendering its corporate existence and who are thereafter duly and lawfully appointed, enrolled or transferred to the respective departments of the city retaining its corporate existence, shall be entitled to membership in the fund, and the benefits thereof, upon compliance with the requirements of this Act which provides the exclusive procedure for obtaining and maturing any rights and benefits under Chapter 33, Acts of 1941. Written application for participation must be filed with the Board within sixty days after becoming a member of either of such departments of said city, and in addition shall pass a physical examination of the same character that is required for original admission into the respective departments in which he subsequently serves, and provided he shall pay into such fund within a year a sum of money equal to the salary deductions he would have paid had he been eligible to membership upon becoming a policeman or fireman in any other city or town, and shall also allow the deductions from his current salary as therein provided. The benefits of this fund accruing to such policemen or firemen shall be all of the benefits accruing to other policemen or firemen generally under the provisions of the original Act of which this is an amendment, and accruing to his years of service, the time he was legally and regularly employed as a policeman or fireman in such other city or town. No policeman or fireman coming under the applicable provisions of this section shall be entitled to the full benefits of this Act until all of the money herein required to be paid has been in fact paid to the custodian of the fund. The custodian of the fund shall certify to the governing body of the city the fact of compliance with this section, and the said governing body shall appropriate to said pension fund from any available funds a sum of money equal to the contributions it would have made had such policeman or fireman been originally employed by the consolidated city retaining its corporate existence. The provisions of this Act shall never be construed as permitting a policeman or fireman to be a member of more than one pension fund or to again become a contributing member of the pension fund where he is now either for himself or his heirs receiving any payments from said fund by reason of any service with the City of Dallas in its Police and Fire Departments. As amended Acts 1945, 49th Leg., p. 62, c. 43, § 1.

¹ Section 1 of this article.

Emergency. Effective March 23, 1945. Acts 1945, Acts 1945, 49th Leg., p. 62, c. 43, amended section 6 by adding thereto an additional paragraph as set out in the text.

Section 2 of the amendatory Act of 1945 read as follows: "If any part or parts of this Act shall be held to be unconstitution-

al, such unconstitutionality shall not affect the validity of the remaining parts of this Act, and the Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional."

Art. 6243e. Firemen's Relief Pension Fund

Retirement age and pension

Sec. 6. On and after the 1st day of April, A. D. 1939, any person who has been duly appointed and enrolled, and who has attained the age of fifty-five (55) years and who has served actively for a period of twenty (20) years in some regularly organized fire department in any city or town in this state now within or that may come within the pro-

visions of this Act, in any rank, whether as wholly paid, part paid or volunteer firemen, shall be entitled to be retired from such service or department and shall be entitled to be paid from the Firemen's Relief and Retirement Fund of that city or town, a monthly pension equal to one-half of his average monthly salary not to exceed a maximum of One Hundred Dollars (\$100.00) per month; such average monthly salary to be based on the monthly average of his salary for the five (5) year period preceding the date of such retirement; provided further, that if his average monthly salary is Fifty Dollars (\$50.00) or less per month or if a volunteer fireman with no salary, he shall be entitled to a monthly pension or retirement allowance of Twenty-five Dollars (\$25.00). Notwithstanding any other provision of this Act, it is hereby specially provided that any eligible and qualified fireman who shall have completed twenty (20) years of service before reaching the age of fifty-five (55) years may apply to the Board of Trustees for, and it shall be the Board's duty to issue, a certificate showing the completion of such service and showing and certifying that such fireman, when reaching the age of fifty-five (55) years, will be entitled to the retirement and other applicable benefits of the Act; provided further, that when any fireman shall have been issued such certificate he shall, when reaching retirement age, be entitled to all the applicable benefits of the Act, even though he shall not have been engaged in active service as a fireman after the issuance of such certificate. Provided further, that in order to participate in the benefits authorized under this Act all persons shall continue to pay into the Firemen's Relief and Retirement Fund the amounts provided for all participants thereunder up to the time of their retirement. Acts 1945, 49th Leg., p. 58, c. 40, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

TITLE 115—REGISTRATION

CHAPTER TWO—ACKNOWLEDGMENTS AND PROOF FOR RECORD

Art. 6602. 6797-8-9, 4613-14-15, 4305-6-7 Persons before whom acknowledgments or proof made; members of armed forces; presumption; absence of seal

1. The acknowledgment or proof of an instrument of writing for record may be made within this state before:

- a. A Clerk of the District Court.
- b. A Judge or Clerk of the County Court.
- c. A Notary Public.

2. The acknowledgment or proof of such instrument may be made without this state, but within the physical limits of the United States of America or its territories before:

- a. A Clerk of some court of record having a seal.
- b. A Commissioner of Deeds duly appointed under the laws of this state.

- c. A Notary Public.

3. The acknowledgment or proof of such instrument may be made without the physical limits of the United States and its territories before:

- a. A Minister, a Commissioner or Charge D'affairs of the United States, resident and accredited in the country where the proof or acknowledgment is made.

- b. A Consul-General, Consul, Vice-Consul, Commercial Agent, Vice-Commercial Agent, Deputy Consul or Consular Agent of the United States, resident in the country where proof of acknowledgment is made.

- c. A Notary Public.

4. In addition to the methods above provided, the acknowledgment or proof of an instrument of writing for record may be made by a member of the Armed Forces of the United States or any Auxiliary thereto before any Commissioned Officer in the Armed Forces of the United States of America or in the Auxiliaries thereto.

In the absence of pleading and proof to the contrary, it shall be presumed when any such acknowledgment is offered in evidence that the person signing such as a commissioned officer was such on the date signed, and that the person whose acknowledgment he took was one of those with respect to whom such action is hereby authorized.

No certificate of acknowledgment or proof of instrument taken in accordance with the provisions of this sub-section 4 of this Act shall be held invalid by reason of the failure of the officer certifying to such acknowledgment or proof of instrument to attach an official seal thereto. As amended. Acts 1945, 49th Leg., p. 542, ch. 328, § 1.

Emergency. Effective June 14, 1945.

TITLE 116—ROADS, BRIDGES, AND FERRIES

CHAPTER ONE—STATE HIGHWAYS

1. STATE HIGHWAY DEPARTMENT	Art.	
Art.		Department to make; destruction of original records [New].
6663a. Photographic or microphotographic records; authority of Highway Department and Public Safety		
	2. REGULATION OF VEHICLES	
	6675a—17. Transfer of surplus funds from registration fees [New].	

Art. 6663a. Photographic or microphotographic records; authority of Highway Department and Public Safety Department to make; destruction of original records

Section 1. That the State Highway Department is hereby authorized to photograph, microphotograph, or film motor vehicle registration records, certificate of title records, highway planning survey records, accounting records including copies of labor and material payrolls, material shipping orders and supporting detail of quotations; and the Texas Department of Public Safety is hereby authorized to photograph, microphotograph, or film all records in connection with the issuance of operators' licenses, chauffeurs' licenses, and commercial operators' licenses and all records of the various divisions of the Texas Department of Public Safety, with the exception that no original fingerprint card or any evidence submitted in connection with a criminal case or any confession or statement made by the defendant in a criminal case shall be photographed or filmed for the purpose of disposing of the original records, and that whenever the State Highway Department or the Texas Department of Public Safety shall have photographed, microphotographed or filmed such records and whenever such photographs or microphotographs or films shall be placed in conveniently accessible files and provisions made for preserving, examining and using the same, the State Highway Department or the Texas Department of Public Safety may cause the original records from which the photographs, microphotographs or films have been made to be disposed of or destroyed.

Sec. 2. Photographs or microphotographs or films of any record photographed, microphotographed or filmed, as herein provided, shall have the same force and effect as the originals thereof would have had, and shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. Duly certified or authenticated copies of such photographs or microphotographs or films shall be admitted in evidence equally with the original photographs or microphotographs or films.

Sec. 2a. The State Highway Engineer, for the State Highway Department, and the Director of the Texas Department of Public Safety, for the Texas Department of Public Safety, are hereby authorized to certify to the authenticity of any photograph or microphotograph herein authorized and shall make such charges therefor as may be authorized by law. Such certified records shall be furnished to any person who is entitled to receive the same under the law.

Sec. 3. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses

or phrases be declared unconstitutional. Acts 1945, 49th Leg., p. 57, c. 39.

Emergency. Effective March 23, 1945.

Section 4 of this Act repealed all laws or parts of laws in conflict herewith.

Title of Act:

An Act to provide for certain photographed or microphotographed or filmed records of the State Highway Department and the Texas Department of Public Safety; authorizing the State Highway Department and the Texas Department of Public Safety to photograph, microphotograph or film certain of its records; providing that such photographs, microphotographs or films shall be deemed original

records for all purposes; authorizing the State Highway Engineer and the Director of the Texas Department of Public Safety to certify to the authenticity of any photograph or microphotograph herein authorized and to make such charges therefor as may be authorized by law; and authorizing the destruction of the original records when such photograph, microphotograph or film has been made and filed and provision made for preserving, examining and using the same; repealing all laws in conflict herewith; providing a savings clause; and declaring an emergency. Acts 1945, 49th Leg., p. 57, c. 39.

Art. 6674q—7. County and Road District Highway Fund; distribution; Board of County and District Road Indebtedness continued; powers and duties; Lateral Road Account

(j) All moneys to be deposited to the credit of the County and Road District Highway Fund, from September 1, 1945, to August 31, 1947, both inclusive, are hereby appropriated to said respective counties and defined road districts and shall be received, held, used and applied by the State Treasurer, as ex-officio Treasurer of said respective counties and defined road districts, for the purposes and uses more specifically set forth in this Act, including the payment of principal, interest and sinking fund requirements on all eligible obligations maturing up to and including August 31, 1947. And each year thereafter until all of such eligible obligations are fully paid, all moneys coming into the credit of the County and Road District Highway Fund with the State Treasurer, and all moneys remaining therein from any previous year shall be received and held by him as ex-officio Treasurer of such counties and defined road districts, and shall first be subject to the appropriation for the payment of interest, principal and sinking funds maturing from time to time on said eligible obligations, and then for the other uses specified and permitted in this Act.

In the event any county, road district, or defined road district has since September 1, 1941, made any payment on eligible bonds, warrants, or other evidence of eligible indebtedness as defined under the terms of this Act, then such county, road district, or defined road district shall be reimbursed by the Board of County and District Road Indebtedness in the amount of the payment so made on such eligible obligations. As amended Acts 1945, 49th Leg., p. 389, ch. 251, § 1.

(n) The Board shall keep adequate minutes of its proceedings and semiannually, on or before June 30th and December 31st of each year, shall make itemized reports to each county with respect to the receipt, disbursement, and investment of the funds credited to such county. The Commissioners Court of any county, and/or its accredited representatives shall have the right to inspect the records of said Board and of the State Treasurer, at any reasonable time, for the purpose of making any investigation or audit of the accounts affecting its county. As amended Acts 1945, 49th Leg., p. 389, ch. 251, § 2.

Amendments to subdivisions (j) and (n) became effective 90 days after June 5, 1945, date of adjournment.

Section 1 of the Act of 1945 purported to amend subsections (j) and (n) of section 7

of the Act of 1932, as amended by section 6 of the Act of 1943, but it was apparently intended as an amendment of subsections (j) and (n) of this article.

2. REGULATION OF VEHICLES

Art. 6675a—13. License plates for years 1946, 1947 and 1948

The State Highway Department is hereby authorized to issue for the 1946, 1947 and 1948 motor vehicle registration years a single plate or plates of metal or other material, symbols, tabs, or other devices which when attached to a motor vehicle having been duly registered for the preceding registration years shall for the purpose of this Act be deemed to be the legal registration insignia for the registration year for which issued. As amended Acts 1945, 49th Leg., p. 31, c. 22, § 1.

Emergency. Effective March 10, 1945.

Sections 2, 3 and 5 of the amendatory Act of 1945 read as follows:

"Sec. 2. Upon payment of the prescribed registration fee by applicants for motor vehicle registration, the State Highway Department is authorized to issue through the County Tax Assessor-Collectors a single plate or plates of metal or other material, symbols, tabs, or other devices to be attached to a motor vehicle having duly authorized license plate, plates or other insignia for the preceding registration year. Motor vehicles not previously registered may be issued a regular metal license plate or plates if such be available or may be issued symbols, tabs, or other devices which shall be deemed to be the legal registration insignia for the registration year in which the vehicle is registered.

"Sec. 3. The owner of each motor vehicle re-registered for each of the 1946,

1947, and 1948 registration years is hereby directed to attach to the vehicle the legal registration insignia issued by State Highway Department through the County Tax Assessor-Collectors, in place or places prescribed by the State Highway Department in such manner as to be clearly visible.

"Sec. 5. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional."

Section 6 of the amendatory Act of 1945 repealed all conflicting laws or parts of laws.

Art. 6675a—13½. Designs and specifications of license plates, symbols, etc.; requisition and purchase

The State Highway Department shall prepare the designs and specifications for the single plate or plates of metal or other material, symbols, tabs, or other devices selected by the State Highway Commission to be used as the legal registration insignia and requisition and purchase of the same shall be submitted to the State Board of Control for approval. As amended Acts 1945, 49th Leg., p. 31, c. 22, § 4.

Effective March 10, 1945.

See notes to art. 6675a—13.

Art. 6675a—17. Transfer of surplus funds from registration fees

In all counties of this State having surplus funds from revenues derived from motor vehicle registration fees which each said county is authorized to retain under the laws of the State of Texas, and where any such county or counties are not levying a tax for the building and maintenance of roads and bridges for such county or counties, the Commissioners Court of said county or counties is hereby authorized to transfer such surplus funds to any other county fund or funds which such Court may from time to time designate, and to expend such surplus funds for any other use or purpose. Acts 1945, 49th Leg., p. 273, ch. 202, § 1.

Emergency. Effective May 10, 1945.

Title of Act:

An Act authorizing the Commissioners Courts of certain counties to place revenues from motor vehicle registration fees allocated to said counties in any county fund or

funds that such Commissioners Courts may designate and expend said revenues for any other use and purpose; and declaring an emergency. Acts 1945, 49th Leg., p. 273, ch. 202.

Art. 6687b. Drivers', chauffeurs', and commercial operators' licenses;
accident reportsARTICLE II—ISSUANCE OF LICENSES, EXPIRATION, AND RE-
NEWAL

Sec. 3. What persons are exempt from license.

6. Any person in the Armed Forces of the United States who is on leave or furlough or who may be temporarily absent from his or her post of duty, or who has been honorably discharged from the Armed Forces of the United States of America for not more than six (6) months; provided, however, that this exemption shall extend only until the cessation of hostilities in the present war and for one year thereafter. Added Acts 1945, 49th Leg., p. 59, c. 41, § 3.

Sec. 4. Who may not be licensed.

The Department shall not issue any license hereunder:

1. To any person, as an operator, who is under the age of sixteen (16) years, except that the County Judge of the county wherein such person resides may, after investigation, and public hearing, authorize the Department, in writing, to issue a license to any such person, when, in his opinion, the person so applying is qualified and conditions exist which make it necessary for such person to be licensed as an operator; provided, however, that any student who has completed and passed the State Department of Education approved standard driver training course which course must also be approved by the Department of Public Safety, may make application and be given the regular driver's license examination. This application shall include a certification by the Superintendent of the school that said standard driver training course is part of the regular curriculum, and further, that the student applying for a license has passed this course. If, after having properly filed an application, a student can pass the regular driver's license examination, the Department may, in its discretion, issue an operator's license; provided, however, that in no event shall an operator's license of any class be issued to any person less than fourteen (14) years of age. As amended Acts 1945, 49th Leg., p. 59, c. 41, § 1.

Sec. 12. Restricted licenses.

(a) The Department, upon issuing an operator's, commercial operator's, and/or chauffeur's license, shall have authority, whenever good cause appears, to impose restrictions suitable to the licensee's driving ability with respect to the type of, or special mechanical control devices required on a motor vehicle which the licensee may operate, or mechanical attachments (glasses, artificial limbs, etc.) required on the person of the licensee. The Department furthermore shall have the authority to impose restrictions suitable to the licensee's driving ability with respect to areas, locations, roads and highways within this state, or with respect to the time of day or night that the licensee shall be permitted to drive a motor vehicle or such other restrictions applicable to the licensee as the Department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee. As amended Acts 1945, 49th Leg., p. 59, c. 41, § 2.

Amendment of 1945 to section 3, 4 and 12
effective March 23, 1945.

CHAPTER TWO—ESTABLISHMENT OF COUNTY ROADS

Art. 6703. 6860-1-2-76-6902 Commissioners courts: powers

National forests, allocation of receipts from federal government, see Art. 2351b-4.

CHAPTER THREE—MAINTENANCE OF ROADS

4. OPTIONAL ROAD LAW

Art.

6770a-3. New; repealed.

6770a-4. Fayette County; road duty
[New].

4. OPTIONAL ROAD LAW

Art. 6770a-3. Repealed. Acts 1945, 49th Leg., p. 272, ch. 201, § 1.
Eff. May 10, 1945.

Derived from Acts 1943, 48th Leg., p. 329, ch. 210, § 1 and related to road duty in Fayette County.

Art. 6770a-4. Fayette County; road duty

No male person of Fayette County, Texas, shall be required to do any kind of road duty or work, or be required to pay any head tax in lieu of such road work or duty. Acts 1945, 49th Leg., p. 272, ch. 201, § 2.

Emergency. Effective May 10, 1945.

Section 2 of the Act of 1945 repealed all conflicting laws and parts of laws.

TITLE 117—SALARIES

Art.

6819a—3. Additional compensation of counties of 338,000 to 500,000
 Judges of district courts in [New].

Art. 6819a—3. Additional compensation of judges of district courts
 in counties of 338,000 to 500,000

Section 1. That in all Counties in this State having a population of not less than three hundred and thirty-eight thousand (338,000) nor more than five hundred thousand (500,000) inhabitants, according to the last preceding or any future Federal Census, the Judges of the several District Courts and Criminal District Courts shall each receive annually, payable in monthly installments, the sum of Two Thousand and Five Hundred Dollars (\$2,500) to be paid by said Counties, out of the General Fund thereof, as compensation for all judicial and administrative services now rendered by them and any additional judicial and administrative services hereafter to be assigned to them, in addition to all salary paid or hereafter to be paid to them by the State of Texas out of State revenues.

Sec. 2. It is expressly declared that nothing in this Act shall be construed to repeal all or any part of Article 5139, Revised Civil Statutes of Texas of 1925, or Article 5142-A, Section 1-a, (the same being Section 1-a of the Acts of 1935, Forty-fourth Legislature, Regular Session, Chapter 156, Page 401), in so far as same now apply to Counties having a population of not less than three hundred and thirty-eight thousand (338,000) nor more than five hundred thousand (500,000) inhabitants, according to the last preceding or any future Federal Census, providing, however, that the several Judges of the District Courts and Criminal District Courts in said County shall not receive any salary as provided in Article 5139, Revised Civil Statutes of Texas of 1925, or under Article 5142-A, Section 1-a, (same being Section 1-a of the Acts of 1935, Forty-fourth Legislature, Regular Session, Chapter 156, Page 401), for any month wherein they shall have received the salary herein provided to be paid out of the General Fund of said Counties. Acts 1945, 49th Leg., p. 271, ch. 200.

Emergency. Effective May 10, 1945.

Title of Act:

An Act providing for the fixing of compensation to Judges of District Courts and Criminal District Courts in Counties having a population of not less than three hundred and thirty-eight thousand (338,000) nor more than five hundred thousand (500,000) inhabitants, according to the last preceding or any future Federal census; providing the manner of payment thereof; pro-

viding that Article 5139, Revised Civil Statutes of Texas of 1925, and Article 5142-A, Section 1-a, Revised Civil Statutes (same being Section 1-a of the Acts of 1935, Forty-fourth Legislature, Regular Session, Chapter 156, Page 401) shall not be repealed, prohibiting, however, the payment of salaries under said two Articles for any month wherein salaries herein provided are paid; and declaring an emergency. Acts 1945, 49th Leg., p. 271, ch. 200.

Art. 6824. [7086] [4853] Change in salary

Act of 1945, p. 652, ch. 362, effective June 22, 1945, read as follows:

"Section 1. The salaries of all State Officers and all state employees, except those Constitutional State Officers whose salaries are specifically fixed by the Constitution, and except the salaries of the District Judges and other compensation of District Judges shall be, for the period beginning September 1, 1945, and ending August 31,

1947, in such sums or amounts as may be provided for by the Legislature in the general appropriation bills. It is specifically declared to be one of the intents hereof that the Legislature shall also fix the amount of supplemental salaries hereafter, out of court fees and receipts, to be paid to the clerks and other employees of the Courts of Civil Appeals, the Supreme Court, and the Court of Criminal Appeals.

"Sec. 2. All laws and parts of laws fixing the salaries of all State Officers and employees, except those Constitutional State Officers whose salaries are specifically fixed by the Constitution and except the salaries of the District Judges and other compensation of District Judges are hereby specifically suspended insofar as they are in conflict with this Act. It is specif-

cally 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."

TITLE 118.—SEAWALLS

Art. 6830. [5585] Commissioners' court may construct levees

Freeport, town of

Acts 1945, 49th Leg., p. 612, ch. 352 read as follows:

"Section 1. That for a period of twenty (20) years commencing September 1, 1945, and ending August 31, 1965, there be and hereby are donated and granted by the State of Texas to the town of Freeport, in Brazoria County, Texas, all of the State ad valorem taxes for general fund purposes collected from persons, firms or corporations upon property, real and personal (including rolling stock belonging to railroad companies, which shall be ascertained and apportioned as now provided by law) within Road District No. 8, the boundaries of which appear in Volume K, page 577, Minutes of the Commissioners Court of Brazoria County, Texas; Road District No. 9, the boundaries of which appear in Volume L, page 101, Minutes of the Commissioners Court of Brazoria County, Texas; and Road District No. 23, the boundaries of which appear in Volume 0, page 447, Minutes of the Commissioners Court of Brazoria County, Texas, all in Brazoria County not heretofore donated and granted.

"Sec. 2. At the end of each month the Tax Assessor-Collector of Brazoria County, on forms to be furnished by the Comptroller of Public Accounts (hereinafter referred to as the Comptroller), shall make a report under oath, to said Comptroller, showing the amount of ad valorem taxes collected by him, for the State General Fund upon property, real and personal (including rolling stock belonging to railroad companies); within said road districts in said County, and accompany the same with a summarized statement showing full disposition of all such State taxes collected. The said Assessor-Collector shall pay over to the Treasurer of the town of Freeport all moneys collected by him, under the provisions of this Act, over and above that heretofore donated and granted, except such amounts as are allowed by law for assessing and collecting the same, and shall forward to the Comptroller a duplicate copy of the receipt for such moneys given to him by the Treasurer of the town of Freeport. It is expressly provided, however, that no remittance shall be made by the Assessor-Collector of Brazoria County on account of

taxes collected from said road district to the Reclamation District or the town of Freeport for a given year unless and until such Assessor-Collector shall have been notified in writing by the Comptroller of Public Accounts that the amount of money due it on account of taxes for such year shall have been remitted to the Brazos River Conservation and Reclamation District under the provisions of Chapter 368, Acts of the First Called Session of the Forty-fourth Legislature; it being the intention of this Act that after the requirements under said Act of the Forty-fourth Legislature shall have been met for such year all money realized from the State ad valorem tax levied for general purposes in said road districts in said County shall, on August 1st, after remitting any balance then due said reclamation district, be remitted to the town of Freeport, Texas, for the uses prescribed in this Act.

Sec. 3. The Treasurer of the town of Freeport shall, at the end of each month, make an itemized report, under oath, to the Comptroller, showing the amount of money received by him from the Tax Assessor-Collector of Brazoria County as provided in this Act.

Sec. 4. The municipal authorities of the town of Freeport shall, on the first day of September of each year, cause to be made an itemized statement, under oath, and in duplicate, showing the amount of money received by the town of Freeport under this Act, and how, to whom, and for what purpose the same has been expended. One copy of such statement, after having been audited, shall be forwarded to the Comptroller. The said statement shall be sworn to by the Treasurer of said town and the correctness thereof shall be certified by an auditor appointed by the town of Freeport, who shall, while auditing said statement, have before him all vouchers or cancelled bonds or coupons, upon which expenditures have been made from said funds. And no item of expenditure shall be allowed or passed by said auditor unless he have in his possession legal and proper vouchers therefor, showing compliance with this Act.

Sec. 5. The moneys herein and hereby granted and donated to the town of Freeport are declared to be trust funds for the

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

purpose of paying the interest and the sinking fund upon an issue or issues of bonds, the proceeds of which bonds are to be used exclusively in raising, strengthening, and extending existing seawalls and breakwaters now partially protecting the said town from calamitous overflows and in constructing additional seawalls and breakwaters, both within and without the corporate limits of the said town of Freeport.

Sec. 6. The town Commission of the town of Freeport is hereby authorized to issue negotiable bonds for the permanent public improvements contemplated by this Act, to wit: raising, strengthening and extending the existing seawalls and breakwaters now partially protecting the said city from calamitous overflows, and in constructing additional seawalls and breakwaters, both within and without the corporate limits of the said town of Freeport. Said bonds shall be secured by and payable from a pledge of the taxes granted and donated by this Act to said town of Freeport and as additional security therefor the town Commission shall levy a tax on all taxable property within said town supplementing the taxes hereby granted and donated. Said bonds shall be signed by the Mayor, and countersigned by the person acting in the capacity of town Secretary, and shall mature at such times as may be fixed by the town Commission, serially or otherwise, not to exceed twenty (20) years from their date, and shall bear interest not exceeding five (5) per cent per annum; provided, however, that said town Commission shall not issue such bonds unless and until the issuance of such bonds shall have been authorized at an election. The calling and holding of such election and the issuance of said bonds shall be governed by Chapter 1 of Title 22, Revised Civil Statutes of 1925, as amended.

Sec. 7. The town of Freeport shall have and is hereby vested with the power to appropriate private property for public purposes whenever the governing authorities of said town shall deem it necessary for the purpose of enabling such town to acquire the fee simple title, easement or right of way to, over and through any and all lands, waters, or lands under waters, private or public, within, bordering upon, adjacent or opposite to such town necessary for the purpose of raising, strengthening and extending the existing seawalls and breakwaters, and in constructing additional seawalls and breakwaters, and other works incidental thereto, both within and without the corporate limits of said town. In the event of the condemnation or the taking, damaging or destroying of any property for such purposes, the town shall pay to the owner thereof adequate compensation for the property taken, damaged, or destroyed. All condemnation proceedings or suits in the exercise of eminent domain under this Act shall be instituted under the direction of the town Commission, and in the name of the town of Freeport, and all suits or other

proceedings for such purposes and for the assessing of damages and all procedure with reference to condemnation, the assessment of, and estimating of damages, payment, appeal, the entering upon the property pending appeal, etc., shall be in conformity with Title 52, Revised Civil Statutes of 1925, as amended, and all such compensation and damages adjudicated in such condemnation proceedings and all damages which may be done to the property of any person, firm or corporation in making the necessary improvements and protection authorized by this Act, shall be paid out of moneys derived from the sale of said bonds.

Sec. 8. The use or diversion of the moneys herein and hereby granted and donated for any purpose other than the purposes prescribed by this Act is hereby prohibited, provided that whenever the moneys in the hands of the town Treasurer, received from the State under the provisions of this law, shall be sufficient for principal and interest requirements for the current calendar year and in addition be sufficient for the principal and interest requirements for the next succeeding six months' period, such excess moneys may be invested by the governing body of the town as provided in Article 836, Revised Civil Statutes of 1925. All interest earned on said sinking fund shall become a part of said sinking fund. Provided further that when the sinking fund created under the provisions of this Act, shall become sufficient to retire all bonds issued hereunder and all interest accrued and to accrue thereon, according to the tenor and effect of said bonds, the donation herein made shall cease. The violation of the provisions of this section shall constitute a misapplication of public moneys, and the person or persons so offending shall be punished as provided for in Article 86 of the Penal Code of Texas.

Effective 90 days after June 5, 1945, date of adjournment.

Port Aruthur, City of

Acts 1929, 41st Leg., p. 656, ch. 292, as amended by Acts 1941, 47th Leg., p. 1308, ch. 584, and Acts 1945, 49th Leg., p. 615, ch. 353, read as follows:

"Section 1. That commencing with the fiscal year beginning September 1, 1929, and ending August 31, 1961, there be and hereby are donated and granted by the State of Texas to the City of Port Arthur, Texas, situated in Jefferson County, Texas, eight-ninths (8/9) of the net amounts of the State ad valorem taxes collected on all property, both real and personal, in Commissioner's Precinct No. 2 of Jefferson County, Texas, as it existed on January 1, 1945, which shall be ascertained and apportioned as now provided by law; provided that from and after August 31, 1949, Three Thousand Dollars (\$3,000) of the assessed taxable value of all residence homesteads, as now defined by law, in said Precinct No. 2 shall be exempt from all taxation for the purposes enumerated in this Act as well as for all State purposes.

"Sec. 2. At the end of each month, the Collector of Taxes for Jefferson County, shall on forms to be furnished by the Comptroller of Public Accounts, make an itemized report, under oath to said Comptroller, showing each and every item of State ad valorem taxes collected by him as provided for in this Act, upon all property, both real and personal, in said Commissioner's Precinct No. 2 of Jefferson County, Texas, as it existed on January 1, 1945, and accompanying same with a summarized statement showing full disposition of all such State taxes collected; said Collector shall present such report together with the tax receipt stubs, authorized by law to be kept, to the County Clerk of Jefferson County, Texas, who shall within ten (10) days compare said report with stubs, and, if the same agree in every particular as regards names, dates and account, the Clerk shall certify to its correctness for which examination and certificate he shall be paid by the Commissioners Court, Twenty-five (25) Cents for each certificate and Twenty-five (25) Cents for each two hundred (200) taxpayers named in said report. The said Collector shall then immediately forward his report, so certified to the Comptroller and shall pay over to the City treasurer of the City of Port Arthur, Texas, eight-ninths (8/9) of all moneys collected by him during said month under the provisions of this Act, except such amounts as are allowed by law for assessing and collecting the same, and shall forward a duplicate copy of the receipt given to him by the treasurer of the City of Port Arthur, Texas, for such moneys to the Comptroller. The said Collector shall remit to the State Treasury one-ninth (1/9) of all such taxes collected by him from month to month.

"Sec. 3. The treasurer of the City of Port Arthur, Texas, shall, at the end of each month make an itemized report under oath, to the Comptroller of Public Accounts, showing the amount of money received by him from the Collector of Taxes from Jefferson County, and what disbursements, if any, have been made during said month of such moneys.

"Sec. 4. The municipal authorities of the City of Port Arthur, Texas, shall, on the 1st day of January of each year, cause to be made an itemized statement, under oath and in triplicate, showing the amount of money received by the City of Port Arthur, Texas, under this Act, and how, to whom, and for what purpose the same has been expended. One copy of such statement after having been audited shall be forwarded to and filed by the County Clerk of Jefferson County, Texas, as hereinafter provided, and the other to the Comptroller of Public Accounts. The said statement shall be sworn to by the treasurer of said City, and the correctness thereof shall be certified by an auditor appointed by the Commissioners Court of Jefferson County, Texas, who shall, while auditing said statement, have before him all vouchers upon

which expenditures have been made from said fund. And no item of expenditure shall be allowed or passed by said auditor unless he have in his possession legal and proper vouchers therefor, showing compliance with this Act. And upon the completion of said audit the said report and all vouchers shall be attached together, numbered consecutively, and be by said auditor returned to and thereafter safely kept by the County Clerk of Jefferson County, Texas, as a part of the records of his office.

"Sec. 5. The moneys herein and hereby granted and donated to the City of Port Arthur, Texas, are declared to be trust funds for the purpose of aiding said City in paying the interest upon and principal of and providing a sinking fund for an issue or issues of bonds heretofore or hereafter issued, the proceeds of which bonds have been or are to be used exclusively in constructing and maintaining seawalls, breakwaters, shore protections and primary drainage systems in order that said City be protected from calamitous overflows and storm waters; provided that out of the proceeds of such bonds the City of Port Arthur shall be refunded the sum of Seventy-one Thousand, Nine Hundred and Forty-eight Dollars and Thirty-one Cents (\$71,948.31), that being the amount levied and collected through taxation by said City to meet a deficit in the interest and sinking fund of the Seawall and Storm Protection Bonds heretofore issued. The use and diversion of such moneys for any other purpose whatsoever is hereby prohibited; provided, that whenever the moneys in the hands of the City treasurer, received from the State under the provisions of this or any other law, shall exceed the sum of one year's interest and the sinking fund on the bonds herein referred to that have been issued and then outstanding, such excess shall be invested by said City in the purchase of said bonds or bonds of the United States, the State of Texas, or the bonds of any county or sub-division thereof, city or town, of the State of Texas, bearing interest at a rate of not less than one and three-fourths (1-3/4) per cent per annum, and, provided, further, that the entire sinking fund, when received by the City Treasurer of said City shall be invested by the municipal authorities of said City, as received, in the bonds herein referred to, or bonds of the United States, the State of Texas, or the bonds of any county or subdivision thereof, city or town of the State of Texas, bearing interest at the rate of not less than one and three-fourths (1-3/4) per cent per annum; provided, further, that when the sinking fund created under the provisions of this Act shall become sufficient to retire all bonds issued hereunder, this Act shall cease to be operative and the donation herein made shall cease. A violation of the provisions of this Section shall constitute a misapplication of public money and the person or persons so offending shall

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be punished as provided for in Article 86 of the Penal Code of the State of Texas."

Sec. 2. If any section, paragraph, sentence, clause or phrase of this Act shall be held invalid or unconstitutional, such holding shall not invalidate any other section, paragraph, sentence, clause or phrase here-

of, and the Legislature hereby expressly declares that it would have passed such remaining sections, paragraphs, sentences, clauses and phrases despite such invalidity.

Effective 90 days after June 5, 1945, date of adjournment.

TITLE 120A—STATE AND NATIONAL DEFENSE [NEW]

Art.

6889—1. Expired.

Art. 6889—1. Expired April 16, 1945

This article, derived from Acts 1943, 48th Leg., p. 223, ch. 142, effective April 16, 1943, authorizing the creation of an organization for coordination of defense activities pro-

vided that it should be in force only while the United States was at war and in no event for a longer period than two years from the date it became law.

TITLE 121—STOCK LAWS**CHAPTER ONE—MARKS AND BRANDS**

Art. 6899. Records of marks and brands, except county brands, void after October 1, 1943; rerecording; inapplicable to certain counties

Ownership of more than one brand or mark

Sec. 1a. At any place in the above and foregoing section of Article 6899 where the words "brand and/or mark" are used singularly, such words or language shall be construed as having a plural meaning and interpretation, so that hereafter any legal owner may have and own and record one or more brands and/or marks by otherwise complying with all the other provisions of this Article. Added Acts 1945, 49th Leg., p. 321, ch. 235, § 1.

Section 1a effective May 24, 1945.

Section 2 of the Act of 1945 provided that except as is amended in "Section 1a", above, all the other provisions, words, and

language of Article 6899 are hereby reenacted. Section 3 of the Act of 1945 repealed all conflicting laws and parts of laws.

CHAPTER FIVE—STOCK LAW AND LIMITED RANGE**2. STOCK LAW ELECTIONS**

Art. 6931. [7210-7234] Territory between subdivisions

Whenever there is territory between two (2) subdivisions of a county which have adopted a stock law, or when there is territory adjoining a subdivision which has adopted a stock law, in a county, or in an adjoining county, and in such territory there are less than fifty (50) freeholders, an election shall be ordered on a petition of a majority of the freeholders residing in such territory by the Commissioners Court of the County in which the territory lies, and the election shall be held as provided by law in other cases relating to the adoption of the stock law. If there be less than twenty (20) freeholders in such intervening or adjoining territory, then on petition of a majority of the owners of the land to said Commissioners Court, the said Commissioners Court shall issue an order extending the stock law to said territory and the same shall be included in the territory of such adjoining subdivision; in cases where there are no freeholders on such intervening or adjoining territory, then on the petition of the owner or owners of the land to said Commissioners Court, the said Court shall issue an order extending the stock law to said territory, and the same shall be included in the territory of such adjoining subdivision; and any person or persons who own lands adjoining any other lands which have been added to territory in which a stock law prevails, shall have the same right, and on petition of the owner or owners of such lands to the said Court, the said Court shall issue an order extending the stock law to said territory, and the same shall be included in the territory of such adjoining subdivision. As amended Acts 1945, 49th Leg., p. 530, ch. 318, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 6953. Second election

Whenever an election is held under the provisions of this law for any county or subdivision, no other election for such purpose shall be held within such county or subdivision for the space of two (2) years, but the defeat of the proposition for a county shall not prevent another election from being held immediately thereafter for any subdivision of such county, and, provided that, if the proposition has been defeated for any subdivision of any such county, no other election shall be held thereafter covering or including said territory except an election held in the same locality or subdivision after the lapse of twelve (12) months from the date of said defeat for said subdivision or locality. If, in a county or subdivision which has formerly adopted the limited period of free range for hogs, as provided for under the terms of this law, a majority of the legal votes cast at such election shall be "Against the limited period of free range for hogs," the county judge shall immediately issue his proclamation declaring the result; which proclamation shall be posted at the courthouse door, and after the expiration of ten (10) days from its issuance, it shall be unlawful to permit hogs to run at large within the limits designated; if a majority of the legal votes cast at such election shall be "For the limited period of free range for hogs," he shall so state in his proclamation, and the operation of the law shall in no way be affected by such election. As amended Acts 1945, 49th Leg., p. 269, ch. 197, § 1.

Emergency. Effective May 10, 1945.

CHAPTER SIX—STOCK RUNNING AT LARGE**Art. 6954a. Election as to domestic turkeys running at large**

Upon written petition of twenty-five (25) freeholders of any political subdivision of Blanco, DeWitt, Gonzales, Gillespie, Guadalupe, Parker, Wise, Clay, Collin and Bastrop Counties, the Commissioners Courts of such counties shall order an election to be held in such subdivisions, which subdivision shall be described in the petition and defined by the Commissioners Court, on the day named in the order for the purpose of enabling the freeholders of such subdivisions to determine whether domestic turkeys shall be permitted to run at large in such subdivisions of such Counties. The requisites of the petition, the order of the Court, the order of the County Judge, the election and all proceedings thereunder shall be the same as prescribed in Articles 6957 to 6971, inclusive, of the Revised Civil Statutes of Texas, 1925, Title 121, Chapter 6, and all provisions and revisions thereof, relative to stock running at large, the impounding thereof, and the penalty therefor shall be applicable to domestic turkeys running at large in the event any such subdivision of said counties shall by election prohibit the running at large of domestic turkeys by a vote as in such Statutes provided; provided that the fees for impounding domestic turkeys shall be ten cents (10¢) per day for each domestic turkey so impounded. As amended 1945, 49th Leg., p. 153, ch. 104, § 1.

Emergency. Effective April 30, 1945.

Art. 6964. 7255 Second election

Whenever an election is held under the provisions of this Chapter for any county or subdivision, and the proposition of a stock law as herein provided is defeated, no other election for such purpose shall be held within that locality for the space of twelve (12) months thereafter; but

the defeat of the proposition for a county shall not prevent another election from being held immediately thereafter for any subdivision of such county, and provided that, if the proposition has been defeated for any subdivision of any such county, no other election shall be held thereafter covering or including said territory except an election held in the same locality or subdivision after the lapse of twelve (12) months from the date of said defeat for said subdivision or locality. As amended Acts 1945, 49th Leg., p. 270, ch. 198, § 1.

Emergency. Effective May 10, 1945.

CHAPTER SEVEN—PROTECTION OF STOCK RAISERS

Art. 7005. 7305, 5043 Counties exempt

The counties of Anderson, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Bee, Bell, Bexar, Borden, Bowie, Bosque, Brooks, Brazoria, Brazos, Brewster, Brown, Burlison, Burnet, Caldwell, Callahan, Calhoun, Cameron, Camp, Carson, Cass, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Collin, Collingsworth, Colorado, Comal, Comanche, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Delta,¹ Denton, DeWitt, Dickens, Dimmit, Donley, Eastland, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Galveston, Garza, Gillespie, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hall, Hamilton, Hansford, Hardeman, Harris, Harrison, Hartley, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jackson, Jack, Jasper, Jeff Davis, Jim Hogg, Johnson, Karnes, Kaufman, Kendall, Kenedy, Kleberg, Knox, Kinney, Lamar, Lamb, Lampasas, Lavaca, Leon, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Marion, Mason, Matagorda, Maverick, Medina, McLennan, Midland, Milam, Mills, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Rains, Randall, Reagan, Red River, Refugio, Robertson, Rockwall, Rusk, Reeves, Sabine, San Augustine, San Patricio, Schleicher, Shelby, Smith, Shackelford, Somervell, Starr, Scurry, Stephens, Sterling, Tarrant, Terrell, Terry, Throckmorton, Titus, Tom Green, Trinity, Tyler, Uvalde, Upshur, Upton, Val Verde, Van Zandt, Victoria, Ward, Washington, Wharton, Wheeler, Wilbarger, Willacy, Williamson, Wilson, Wise, Winkler, Young, Zapata, and Zavala are hereby exempted from the provisions of this Chapter, and from all laws regulating the inspection of hides and animals. As amended Acts 1945, 49th Leg., p. 550, ch. 335, § 1.

Effective June 15, 1945.

TITLE 122—TAXATION

CHAPTER ONE—LEVY OF TAXES AND OCCUPATION TAXES

Art.

7045a. New; expired.

Art. 7043. 7351 Ascertaining tax rate; formula

Within five (5) days after the Comptroller has received such certified statements from every Assessor within this State, said Board shall meet for the purpose of calculating the ad valorem rate of taxes to be collected for the State and public free school purposes. In calculating said rates the Board shall calculate the same by the following rules and upon the following basis: they shall find, by adding together all the property subject to taxation in all counties as shown by the certified statements returned by the Assessors, the total valuation of all property within this State subject to ad valorem taxes. They shall find, by adding together the sums appropriated by the Legislature, which will or which may become due by the State, during the following fiscal year, the amount fixed by the Board of Education for public free school purposes, as the State apportionment, the total sum of which will or which may become due by the State, during the following fiscal year. They shall find, by adding all sums paid into the State Treasury as delinquent ad valorem taxes and interest and penalties thereon during the first half of the current calendar year and latter half of the preceding calendar year and all sums which may be expected to be paid as taxes for State purposes from all sources other than ad valorem taxes, the total sum expected to be collected from all said sources. They shall find, by subtracting from the total sum which will or which may become due by the State during the succeeding fiscal year, the total sum which may be expected to be paid as taxes for State purposes from all sources other than current ad valorem taxes, the total sum for State purposes which must be collected by current ad valorem taxes. They shall add to such remainder twenty (20) per cent of said remainder. They shall add the total sum for State purposes which must be collected by ad valorem taxes added to twenty (20) per cent of such total sum by the quotient of the total valuation of all property within this State divided by one hundred (100). The quotient shall be the number of cents on the one hundred dollars valuation to be collected for the current year for State purposes; provided that said quotient shall not be run to more than three (3) decimals. The rate for State purposes shall never exceed the rate fixed by law on the one hundred dollars valuation of property. In calculating the rate to be collected for public free school purposes, said Board shall take into consideration the number of children in the State within the scholastic age, to be determined from the most recent official school census; in arriving at the rate that shall be fixed for public free school purposes, said Board shall set the rate so that it will yield the amount per student that has been previously fixed by the Board of Education, provided the rate so fixed for any year shall not exceed the rate fixed by law. As amended Acts 1945, 49th Leg., p. 75, ch. 53, § 1.

Emergency. Effective March 30, 1945.

Art. 7045a. Expired May 1, 1945

This article, derived from Laws 1943, 48th Leg., p. 381, ch. 256, § 3, contained provisions identical with those of article 7045 and additional provisions relating to levy of taxes when any member of Commis-

sioners Court or the county Judge was in military service. It provided that it should be effective until the date set out in section 1 of the act which suspended the provisions of article 7045 until May 1, 1945.

Art. 7047a. Occupation tax on stock exchanges

Allocations as made subject to appropriation by legislature, see article 7047b.

Art. 7047b. Tax on producers of natural gas; calculation of tax; market value; payment

Section 1. (1) There is hereby levied an occupation tax on the business or occupation of producing gas within this State, computed as follows:

A tax shall be paid by each producer on the amount of gas produced and saved within this State equivalent to five and two-tenths (5.2) per cent of the market value thereof as and when produced; provided that the amount of such tax on sweet and sour natural gas shall never be less than eleven-one hundred fiftieths (11/150) of one (1) cent per one thousand (1,000) cubic feet.

In calculating the tax herein levied, there shall be excluded: (a) gas injected into the earth in this State, unless sold for such purpose; (b) gas produced from oil wells with oil and lawfully vented or flared; and, (c) gas used for lifting oil, unless sold for such purpose.

(2) The market value of gas produced in this State shall be the value thereof at the mouth of the well; however, in case gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. In all cases where the whole or a part of the consideration for the sale of gas is a portion of the products extracted from the producer's gas or a portion of the residue gas, or both, the tax shall be computed on the gross value of all things of value received by the producer, including any bonus or premium; provided that notwithstanding any other provision herein to the contrary, where gas is processed for its liquid hydrocarbon content and the residue gas is returned by cycling methods, as distinguished from repressuring or pressure maintenance methods, to some gas producing formation, the taxable value of such gas shall be three-fifths (3/5) of the gross value of all liquids extracted, separated and saved from such gas, such value to be determined upon separation and extraction and prior to absorption, refining or processing of such hydrocarbons and the quantity of the products shall be measured by the total yield of the processing plant from such gas.

(3) All liquid hydrocarbons that are recovered from gas by means of a separator or by other non-mechanical methods, incidental to the production of said gas, shall be taxed at the same rate as oil as levied by Acts of 1941, Forty-seventh Legislature, Chapter 184, Article I, Section 1.¹

(4) The tax hereby levied shall be a liability of the producer of gas and it shall be the duty of each such producer to keep accurate records in Texas of all gas produced, making monthly reports under oath as hereinafter provided.

(5) The purchaser of gas shall pay the tax on all gas purchased and deduct the tax so paid from the payment due the producer or other interest holders, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer; such moneys so deducted from payments due producers for the payment of this tax shall be held by the purchaser in trust for the use and benefit of the State of Texas and shall not be commingled with any other funds held by said purchaser, and shall be remitted to the State Treasurer in accordance with the terms and provisions of this Act; and it shall be the duty of each such purchaser to keep accurate records in Texas of all such gas purchased.

(6) The tax herein levied shall be due and payable at the office of the Comptroller at Austin on the last day of the calendar month, based on

the amount of gas produced and saved during the preceding calendar month, and on or before said date each such producer shall make and deliver to the Comptroller a verified report on forms prescribed by the Comptroller showing the gross amount of gas produced, less the exclusions and at the pressure base set out herein, upon which the tax herein levied accrues, together with details as to amounts of gas, from what leases said gas was produced, the correct name and address of the first purchaser of said gas, and such other information as the Comptroller may desire; such report to be accompanied by legal tender or cashier's check payable to the State Treasurer for the proper amount of taxes herein levied. In no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in the event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make such payment and shall be entitled to reasonable attorney's fees and court costs incurred by legal action.

(7) Provided, that unless such payment of tax on all gas produced during any month or fractional part thereof shall be made on or before the date due as hereinabove specified, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

(8) The tax herein levied shall be borne ratably by all interested parties, including royalty interests; and producers and/or purchasers of gas are hereby authorized and required to withhold from any payment due interested parties, the proportionate tax due and remit the same to the Comptroller. As amended Acts 1945, 49th Leg., p. 423, ch. 269, § 1.

1. Article 7057a, § 2.

Determination of market value by Comptroller; appeals

Sec. 3-a. If the Comptroller is satisfied that the values used in computing the tax do not represent the market value of such gas at the mouth of the well, he shall forthwith so notify the producer, and it shall be the duty of the Comptroller to set a date for a hearing thereon, giving the producer not less than ten (10) days written notice thereof, and to call before him by proper process such persons as in his judgment may know the market value of such gas at the mouth of the well, who shall testify under oath as to the market value thereof; and the producer shall have the right to be heard and present evidence. The Comptroller after hearing the evidence shall fix the market value of such gas at the mouth of the well, by written findings in accordance with the evidence so introduced; and his findings in such case or cases shall be final unless the producer shall pay the tax herein levied upon the market value so fixed by the Comptroller under protest as provided under Article 7057b, Revised Civil Statutes of Texas, 1925, as amended, within sixty (60) days after the producer has been notified in writing of said findings. In the event the producer does not pay the tax based on the values so determined by the Comptroller within sixty (60) days after having been notified of such findings, the findings of the Comptroller shall be final unless the producer shall within said sixty (60) days appeal to a Court of competent jurisdiction in Travis County. Upon such appeal, the trial shall be de novo and the findings of the Comptroller shall be taken as prima facie evidence of the market value of such gas at the mouth of the well and the burden of proof shall rest upon the

plaintiff to establish a lower market value. Added Acts 1945, 49th Leg., p. 423, ch. 269, § 5.

Delinquent taxes; injunction against producing gas

Sec. 4. In the event any person engaged in the business of producing any gas in this State shall become delinquent in the payment of the proper taxes herein imposed, or fails to file required reports with the Comptroller, the Attorney General by a suit in the name of the State of Texas shall have the right to enjoin such person from producing gas until the delinquent tax is paid or said reports filed, and the venue of any such suit for injunction is hereby fixed in Travis County. As amended Acts 1945, 49th Leg., p. 423, ch. 269, § 2.

Penalty for violation; lien; suits

Sec. 5. Any person, firm, association or corporation shall be subject to a penalty of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1000) for failure or omission to keep the records required herein, or for the violation of any of the other provisions hereof, and each day's violation shall constitute a separate offense. The State shall have a prior lien for all delinquent taxes, penalties and interests on all property and equipment used by the producer of gas in his business of producing gas, and if any producer of gas shall fail to remit the proper taxes, penalties, and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the producer of gas shall be liable, as additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit; provided, that all funds collected for audits and examinations shall be placed in the Natural and Casinghead Gas Audit Fund in the State Treasury and shall constitute a revolving fund which may be used from time to time by the Comptroller in making such audits in addition to the general appropriation made for such purposes, and all of said funds to be placed in said Natural and Casinghead Gas Audit Fund are hereby appropriated for such purpose. The Attorney General shall file suit in the name of the State of Texas for all delinquent taxes, penalties, and other amounts due, and for the enforcement of all liens under this law; and the venue of any such suit is hereby fixed in Travis County. As amended Acts 1945, 49th Leg., p. 423, ch. 269, § 3.

Gas imported into state

Sec. 8. Repealed Acts 1945, 49th Leg., p. 423, ch. 269, § 4.

Amendments by Act of 1945 to sections 1, 3a, 4, 5 and 8, effective June 1, 1945.

Sections 6 to 9 of the Act of 1945 read as follows:

"Sec. 6. If any section, or sections, clause, sentence, or provision of this Act shall for any reason be held to be invalid or unconstitutional, it shall not affect in anywise the remaining parts of this Act and such remaining parts shall remain in full force and effect.

"Sec. 7. All laws or parts of laws in conflict with any of the provisions of this Act are hereby repealed, but where the same are not in conflict, the provisions of this Act shall be cumulative of existing laws. Provided, however, that all taxes, penalties, and interest accruing to the State of Texas by virtue of repealed Acts before the effective date of this Act, shall be and

remain valid and binding obligations due the State for all taxes accruing under the provisions of prior or existing tax laws, and all such taxes now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State, and the liens and other obligations created to secure their payment are hereby declared to be and shall remain in full force and effect. And further provided, that no offense committed and no fine, forfeiture, or penalty incurred under such repealed Acts before the effective date of this Act, shall be affected by the repeal of any such laws, but the punishment of such offense and the recovery of such fines and forfeitures shall take place as if the law repealed had remained in force.

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

"Sec. 8. Nothing in this Act shall be construed to deprive any producer or taxpayer of the right to avail himself of the rights afforded by Article 7057b, Revised

Civil Statutes of Texas, 1925, as amended.

"Sec. 9. This Act shall take effect and be in force on the first day of the month following its final passage."

CHAPTER TWO—TAXES BASED UPON GROSS RECEIPTS

Art. 7059. 7370 Telegraph companies

(a) Each individual, company, corporation, or association owning, operating, managing or controlling any telegraph lines in this State, or owning, operating, controlling or managing what is known as wireless telegraph stations, for the transmission of messages or aërograms, and charging for the transmission of such messages or aërograms, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller, under oath of the individual, or of the president, treasurer, or superintendent of such company, corporation, or association, showing the gross amount received from all business within this State during the preceding quarter, in the payment of telegraph or aërogram charges, including the amount received on full rate messages and aërograms, and half rate messages and aërograms, and from the lease or use of any wires or equipment within the State during said quarter, excepting all business transacted for and on behalf of the agencies of the United States Government, for which rates are prescribed by the Postmaster General. Said individuals, companies, corporations, and associations, at the time of making said report, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to one and one-half ($1\frac{1}{2}$) per cent of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand five hundred (2,500) inhabitants according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to one and three-fourths ($1\frac{3}{4}$) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand five hundred (2,500) inhabitants and not more than ten thousand (10,000) inhabitants according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to two and two hundred seventy-five thousandths (2.275) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants according to the last preceding Federal census.

(b) No city or other political subdivision of this State, by virtue of its taxing power, police power or otherwise shall impose an occupation tax or charge of any sort for the privilege of doing business upon any person, corporation or association required to pay an occupation tax under this Article, provided that nothing in this Article shall be construed to prohibit the collection of any tax now imposed by a franchise, and provided further that this Article shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise. As amended Acts 1945, 49th Leg., p. 471, ch. 299, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 7064. 7376 Insurance companies other than life, other than fraternal benefit associations, and other than non-profit group hospital service plans; tax on gross premiums

Every insurance corporation, Lloyd's or reciprocals, and any other organization or concern transacting the business of fire, marine, marine inland, accident, credit, title, livestock, fidelity, guaranty, surety, casualty, workmen's compensation, employers liability, or any other kind or character of insurance business, other than the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, written by a life insurance company, life and accident insurance company or health and accident insurance company, or for mutual benefit or protection in this State and other than fraternal benefit associations or societies in this State, and other than non-profit group hospital service plans, at the time of filing its annual statement, shall report to the Board of Insurance Commissioners the gross amount of premiums received upon property located in this State or on risks located in this State during the preceding year, and each of such insurance carriers shall pay an annual tax upon such gross premium receipts of three and five-tenths per cent (3.5%), provided that any such insurance carriers doing two (2) or more kinds of insurance business herein referred to shall pay the tax herein levied upon its gross premiums received from each of said kinds of business; and the gross premium receipts where referred to in this law shall be the total gross amount of premiums received on each and every kind of insurance or risk written, except premiums received from other licensed companies for reinsurance, less return premiums and dividends paid policyholders, but there shall be no deduction for premiums paid for reinsurance. The gross premium receipts, as above defined, shall be reported and shown as the premium receipts in the report to the Board of Insurance Commissioners by the insurance carriers, upon the sworn statements of two (2) principal officers of such carriers. Upon receipt by the Board of Insurance Commissioners of the sworn statements, showing the gross premium receipts by such insurance carriers, the Board of Insurance Commissioners shall certify to the State Treasurer the amount of taxes due by each insurance carrier which tax shall be paid to the State Treasurer on or before the first day of March following, and the Treasurer shall issue his receipt to such carrier, which shall be evidence of the payment of such taxes. No such insurance carrier shall receive a permit to do business in this State until all such taxes are paid.

Each such insurance organization shall also report to the Board of Insurance Commissioners on or before the first day of March of each year, the amount that it had invested on the 31st of December, preceding, in Texas securities as defined herein and the amount that it had invested on said date in similar securities in the state in which it had its highest percentage of admitted assets invested, and in computing the amount of such investments in such other state, it shall include as a part thereof that percentage of its investments in bonds of the United States of America purchased between December 8, 1941, and the termination of the war in which the United States is now engaged that its reserves for unearned premiums and loss reserves, as required in such other state, are of its total reserves. If the report of such insurance organization as of December 31st preceding, shows that such organization had invested in Texas securities, as herein defined, an amount which is not less than seventy-five per cent (75%) nor more than eighty per cent

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

(80%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be two and seventy-five one-hundredths per cent (2.75%) of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty per cent (80%) and not more than eighty-five per cent (85%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be two and one-half per cent (2½%) of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty-five per cent (85%) and not more than eighty-eight per cent (88%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be two per cent (2%) of its gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of eighty-eight per cent (88%) and not more than ninety per cent (90%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be one and one-half per cent (1½%) of such gross premium receipts; if the report shows such insurance organization had invested in such Texas securities on such date an amount which is in excess of ninety per cent (90%) of the amount that it had invested in similar securities in the state in which it then had the highest percentage of its admitted assets invested, its tax shall be one per cent (1%) of such gross premium receipts.

For the purposes of this Act, Texas securities are defined as real estate in this State; bonds of the State of Texas; bonds or interest bearing warrants of any county, city, town, school district or any municipality or subdivision thereof which is now or may hereafter be constituted or organized and authorized to issue bonds or warrants under the Constitution and laws of this State; notes or bonds secured by mortgage or trust deed on property in this State insured by the Federal Housing Administrator; the cash deposits in regularly established national or state banks or trust companies in this State on the basis of average monthly balances throughout the calendar year; that percentage of such insurance company's investments in the bonds of the United States of America, that its Texas reserves for unearned premiums and loss reserves as may be required by the Board of Insurance Commissioners, are of its total reserves; but this provision shall apply only to United States Government bonds purchased between December 8, 1941, and the termination of the war in which the United States is now engaged; in any other property in this State in which by law such insurance carriers may invest their funds.

No occupation tax shall be levied on insurance companies herein subjected to the gross premium receipt tax by any county, city or town. All mutual fraternal benevolent associations now or hereafter doing business in this State under the lodge system and representative form of government, whether organized under the laws of this State or a foreign state or country, are exempt from the provisions of this Article. The taxes aforesaid shall constitute all taxes collectible under the laws of this State against any such insurance carriers except maintenance taxes specially levied under the laws of this State and assessed by the Board of Insurance Commissioners to support the various activities of the divisions of the Board of Insurance Commissioners, and except if any such carrier is writing personal accident or health and accident

insurance other than workmen's compensation, it shall be taxed as otherwise provided by law on account of such business; and except unemployment compensation taxes levied under Senate Bill No. 5, passed by Third Called Session of the Forty-fourth Legislature and amendments thereto.¹ No other tax shall be levied or collected from any insurance carrier by the state, county, city or any town, but this law shall not be construed to prohibit the levy and collection of state, county and municipal taxes upon the real and personal property of such carrier. Purely cooperative or mutual fire insurance companies carried on by the members thereof solely for the protection of their own property, and not for profit, shall be exempt from the provisions of this law. This Act shall be cumulative of all other laws and shall repeal Article 4758, Revised Civil Statutes of 1925, as amended, and all other laws only in so far as they levy any tax on any of the organizations affected by this Act or otherwise conflict with this Act, except as provided above. As amended Acts 1945, 49th Leg., p. 574, ch. 341, § 1.

¹ Article 5221b—1 et seq.

Effective 90 days after June 5, 1945, date of adjournment.

Section 2 of the Act of 1945 read as follows:

Sec. 2. If any section, paragraph or sentence of this Act shall be held invalid, un-

constitutional, or inoperative, it shall not affect the validity of the remaining sections of this Act, but the remainder of the Act shall be given effect as if such invalid, unconstitutional, or inoperative portion had not been included.

Art. 7064a. Repealed. Acts 1945, 49th Leg., p. 442, ch. 279, § 4. Eff. 90 days after June 5, 1945, date of adjournment

This article was derived from Acts 1936, 44th Leg. 3rd C.S., p. 2040, ch. 495, art. 4, § 5b; Acts 1937, 45th Leg., p. 525, ch. 258, § 1b; Acts 1939, 46th Leg., p. 640, § 1, and Acts 1941, 47th Leg., p. 269, ch. 184, Art.

XVIII, § 2, and related to tax on premiums of insurance companies.

Continued obligation for payment of taxes that had accrued, see Act 4769a, § 4.

Art. 7083a. Allocation of revenue derived from certain occupation and gross receipts taxes; appropriations and allocations for certain funds

(4) After the above allocations and payments have been made from such Clearance Fund, there shall be paid therefrom into the Old Age Assistance Fund on the first of each month such sum which, taken with the unexpended balance of State funds in such Old Age Assistance Fund, will establish in the Old Age Assistance Fund a total of Two Million, Two Hundred Thousand Dollars (\$2,200,000) in State funds for that month. No more than Two Million, Two Hundred Thousand Dollars (\$2,200,000) in State funds, from whatever source, may be expended for old age assistance in any calendar month. If, on the first day of the calendar month, the unexpended balance in the Old Age Assistance Fund, plus the amount on that day transferred from the Clearance Fund to the Old Age Assistance Fund, shall not establish in the Old Age Assistance Fund the total sum of Two Million, Two Hundred Thousand Dollars (\$2,200,000) in State funds for that month, then, in that event, there shall be deposited to the credit of the Old Age Assistance Fund from the first revenues collected after the first day of the month which would otherwise go into the General Revenue Fund such sum as, with the balance on hand in the Fund plus the payment from the Clearance Fund, will make available in the Old Age Assistance Fund a total amount of State funds for that month of Two Million, Two Hundred Thousand Dollars (\$2,200,000). The Funds now on hand in, or hereafter deposited to the credit of, the Old Age Assistance Fund are hereby appropriated for the uses and purposes prescribed by law, subject, however, to the pro-

visions of this Act. This appropriation is for the remainder of the fiscal year ending August 31, 1945. The Two Million, Two Hundred Thousand Dollars (\$2,200,000) per month State funds herein appropriated shall be and are in lieu of all other State appropriations for old age assistance, and this State appropriation of Two Million, Two Hundred Thousand Dollars (\$2,200,000) shall not include any funds received from the Federal Government." Provided that the total administrative expenses of all kinds out of State funds for the remainder of the biennium shall never exceed three per cent (3%) of the total amount expended for assistance out of all funds, State and Federal. In the event that the itemized appropriations for administration require less payment out of State funds than three per cent (3%) of the total amount expended for assistance out of all funds, State and Federal, and the necessity therefor exists, and the State Board of Public Welfare finds and declares in writing that such necessity exists, then the State Department of Public Welfare is authorized to pay additional employees or pay additional maintenance and miscellaneous expenses to the extent authorized by the State Board of Public Welfare out of the above appropriation for each month of the remainder of the biennium; and provided further that in no event whatsoever shall the total expenditures for administration and all expenses out of State funds ever exceed three per cent (3%) of the total expenditures for assistance out of all funds, State and Federal. As amended Acts 1945, 49th Leg., p. 67, ch. 46, § 1.

Amendment by Acts 1945 to section 4 effective March 28, 1945.

Section 2 of the amendatory Act of 1945 repealed all conflicting laws and parts of laws.

CHAPTER FIVE—INHERITANCE TAX

Art. 7117. Property, including insurance, subject to tax; reciprocal provisions; transfers in contemplation of death

All property within the jurisdiction of this State, real or personal, corporate or incorporate, and any interest therein, including property passing under a general power of appointment exercised by the decedent by will, including the proceeds of life insurance to the extent of the amount receivable by the executor or administrator as insurance under policies taken out by the decedent upon his own life, and to the extent of the excess over Forty Thousand Dollars (\$40,000) of the amount receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life, whether belonging to inhabitants of this State or to persons who are not inhabitants, regardless of whether such property is located within or without this State, which shall pass absolutely or in trust by will or by the laws of descent or distribution of this or any other State, or by deed, grant, sale, or gift made or intended to take effect in possession or enjoyment after the death of the grantor or donor, shall, upon passing to or for the use of any person, corporation, or association, be subject to a tax for the benefit of the State's General Revenue Fund, in accordance with the following classification; provided, however, that the tax imposed by this Article in respect to personal property of non-residents (other than tangible property having an actual situs in this State) shall not be payable: (1) if the grantor or donor at the time of his death was a resident of a State or territory of the United States which, at the time of his death, did not impose a transfer or inheritance tax of any character in respect of personal property of residents of this State (other than tangible personal property having an actual situs in said State); or, (2) if the laws of the State or territory

of the residence of the grantor or donor at the time of his death, contained a reciprocal provision under which non-residents were exempted from transfer or inheritance taxes of every character in respect to personal property (other than tangible personal property having an actual situs therein) provided the State or territory of residence of such non-residents allowed a similar exemption to residents of the State or territory of residence of such a grantor or donor. For the purpose of this Article the District of Columbia and possessions of the United States shall be considered territories of the United States. Provided further that the provisions of this Act shall not apply to residents of those states which have no inheritance tax law. Any transfer made by a grantor, vendor, or donor, whether by deed, grant, sale, or gift, shall, unless shown to the contrary, be deemed to have been made in contemplation of death and subject to the same tax as herein provided, if such transfer is made within two (2) years prior to the death of the grantor, vendor, or donor, of a material part of his estate, or if the transfer made within such period is in the nature of a final distribution of property and without adequate valuable consideration. As amended Acts 1945, 49th Leg., p. 148, ch. 98, § 1.

Emergency. Effective April 25, 1945.

Art. 7131. Fixing tax; suspension pending appeal

a. Immediately after the filing of the appraisal report, or as soon thereafter as practical, the County Judge shall calculate and determine the tax due on such property, according to the value thereof as shown in such appraisalment, and shall furnish a statement of the same to the Comptroller for verification. If the Comptroller finds the tax to be correct, he shall so advise the County Judge, whereupon it shall immediately become the duty of the County Judge to certify such amount to the executor, administrator, or trustee, and to the person to whom, or for whose use, the property passes, and said tax shall be a lien upon such property from the death of the decedent until paid.

b. Provided in any case where an appeal has been taken from the report of appraisalment, as provided in Article 7130, the assessment of the inheritance tax by the County Judge, as provided in Paragraph a, above, shall be suspended until such time as the matters in controversy shall have been finally adjudicated, and the County Judge shall re-assess the tax in accordance with the new appraisalment. As amended Acts 1945, 49th Leg., p. 546, ch. 332, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Section 4 of the act of 1945 repealed article 7142.

Art. 7132. Payment of tax

All taxes received and/or due under this law by any executor, administrator, or trustee, shall make such payment to the Treasurer of the State of Texas through the Comptroller of Public Accounts. Upon receipt of such payment, the Comptroller shall issue proper receipt therefor, and shall deliver one to the party making payment or to his attorney of record. As amended Acts 1945, 49th Leg., p. 546, ch. 332, § 2.

Art. 7141. Attorney's fees

For the services performed under the provisions of this Chapter, the County Judge shall be allowed a fee equal to two (2%) per cent of the taxes collected, not to exceed Thirty (\$30.00) Dollars in any one estate, which fee shall be in addition to the taxes levied and collected hereunder, and shall be taxed and collected as costs in probate cases. If suit be brought, the county or district attorney prosecuting same shall

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

receive as compensation therefor, five (5%) per cent on the amount of taxes payable hereunder, not to exceed in any one case the sum of Two Hundred (\$200.00) Dollars, which fee shall be added to and collected from said estate in addition to the taxes and penalties herein provided for, and such compensation shall be in addition to all other fees and compensation provided by this law. The aggregate of fees received under this law shall not exceed in any one year Two Thousand (\$2,000.00) Dollars, and any fees earned in addition to said sum shall be considered a portion of the tax and penalties collected, and be distributed in the same manner. As amended Acts 1945, 49th Leg., p. 546, ch. 332, § 3.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 7142. Repealed. Acts 1945, 49th Leg., p. 546, ch. 332, § 4. Eff. 90 days after June 5, 1945, date of adjournment

CHAPTER SIX—PROPERTY SUBJECT TO TAXATION AND RENDITION

Art. 7150. 7507, 5065 Exemption from taxation

4. All property, whether real or personal, belonging exclusively to this State, or any political subdivision thereof, or the United States, except that in each county in this State, where the State of Texas has or may acquire and own land for the purpose of establishing thereon State farms and employing thereon convict labor on State account, the penitentiary board or board of penitentiary commissioners, or other officers of the penitentiary having the management of the same, shall render said land for taxes to the tax assessor of said county and to the tax assessor of each independent school district in which said property, or any part thereof, is located; and the taxes on same shall be assessed and collected in the manner required by law for the assessment and collection of other taxes; provided, that said taxes shall be assessed and collected for county and independent school district purposes only; and said county and independent school district taxes, including all current taxes and all delinquent taxes, shall be paid annually out of the General Revenue Fund of the State. In arriving at the amount to be paid in taxes to the counties the value of the land only shall be considered and not the value of the buildings and other improvements owned by the State and situated on said land. As amended Acts 1945, 49th Leg., p. 470, ch. 298, § 1.

Effective June 4, 1945.

Payments or gifts by federal agencies in lieu of taxes, see art. 5248f.

CHAPTER EIGHT—COLLECTION AND COLLECTOR

Art. 7256. Office at County Seat; (deputy Assessors and Collectors of Taxes in certain towns and cities; bond; compensation)

Each Assessor and Collector of Taxes shall keep his office at the county seat of his county; and it shall be the duty of every person who failed to attend and to pay his taxes at the times and places in his precinct named by the Assessor and Collector of Taxes, as provided in the preceding Article, to call at the office of the Assessor and Collector of Taxes and pay the same before the last day of December of the same year for which the assessment is made; provided, however, that in all

counties containing a city or town, other than the county seat, which has in excess of seven thousand (7,000) inhabitants according to the last Federal Census, said Assessor and Collector of Taxes, with the consent and approval of the Commissioners Court, may appoint a Deputy Assessor and Collector of Taxes in such town or city, who shall have the right to collect taxes from all persons who desire to pay their taxes to him, and to issue a valid receipt therefor. Such Deputy shall enter into such bond, payable to the County Judge of the county as the Assessor and Collector of Taxes and Commissioners Court of the county may require. The salaries of such deputies shall be fixed, determined, and paid, under the general laws of the State, in the same manner and from the same funds as are the salaries of deputy Assessors and Collectors of Taxes whose duties are performed at the county seat. The Assessor and Collector of Taxes shall remain liable on his bonds for all taxes collected by such Deputy and nothing herein shall be construed as a limitation on the liability of the bonds of either the Assessor and Collector of Taxes or such Deputy. Provided further that in all counties having a population of more than seventy thousand (70,000) inhabitants, according to the last preceding Federal Census, and containing one or more cities or towns, other than the county seat, each of which has in excess of one thousand (1,000) inhabitants, according to the last Federal Census, said Assessor and Collector of Taxes with the consent and approval of the Commissioners Court may appoint a Deputy Assessor and Collector of Taxes in each such city or town, who shall have the right to collect taxes from all persons who desire to pay taxes to him and to issue a valid receipt therefor; each such Deputy shall enter into such bond, payable to the County Judge of the county as the Assessor and Collector of Taxes and Commissioners Court of the county may require. The salary of each such Deputy Assessor and Collector of Taxes shall be fixed by the Commissioners Court, and each such Deputy Assessor and Collector of Taxes shall be subject to all the terms and provisions of the law relating to Deputy Assessors and Collectors of Taxes, providing that the salaries fixed by the Commissioners Court for such deputies provided for herein, in such counties, shall not exceed Two Hundred Dollars (\$200) annually for each one thousand (1,000) population, according to the last preceding Federal Census, in each of such cities or towns, and further provided that the salary of either of such Deputy Assessor and Collector of Taxes shall not exceed One Thousand, Two Hundred Dollars (\$1,200) per year. The Assessor and Collector of Taxes shall remain liable on his bonds for all taxes collected by such Deputy, and nothing herein shall be construed as a limitation on the liability of the bonds of either the Assessor and Collector of Taxes or such Deputy. As amended Acts 1945, 49th Leg., p. 586, ch. 345, § 1.

Emergency. Effective June 16, 1945.

The act of 1945 contained a preamble which read as follows:

"Whereas, The present law provides that the salaries of deputy Assessors and Collectors of Taxes in cities in excess of seven thousand (7,000) inhabitants, other than the county seat, shall be paid from a special fund created by a special fee of Twenty-five (25) Cents collected by such deputies

in connection with each tax receipt issued by them; and

"Whereas, Such special salary provision for such deputies creates an undue hardship on said taxpayers living within said cities or towns having populations in excess of seven thousand (7,000) inhabitants, other than county seats, and tends to create confusion in the accounts of the Assessor and Collector of Taxes; now therefore,"

CHAPTER TEN—DELINQUENT TAXES

Art. 7345b. Suits for delinquent taxes by taxing units—"tax units" defined

Partition of lands involved in tax suits

Sec. 15. Where suits are filed for delinquent taxes under the provisions of this Act, and the land is owned undivided by two (2) or more persons, any one or more persons owning an undivided interest in such land, may have the same partitioned as now provided by law for the partition of real estate by the district Courts of this State. When said land has been partitioned and set aside in severalty to the respective owners thereof, the taxes, penalties, interest, and costs shall be apportioned and taxed against the respective owners thereof in proportion to their respective interests in the whole, and upon the payment of taxes, penalties, interest, and costs so apportioned and taxed against such owner, and the land so set aside and partitioned to such owner in severalty, the same shall constitute full and final payment of all taxes, penalties, interest, and costs owing by such owner involved in such suit, and the land so partitioned shall thereafter be free from any further claim or lien for the taxes involved in said suit against said owner.

Provided, however, any owner or owners of a portion thereof so set aside and apportioned to him in such partition proceeding as herein provided shall fail or refuse to pay the taxes, penalties, interest, and costs taxed and apportioned against him and his interest, such suit shall proceed to a conclusion in accordance with all other provisions of this Act as to such owner and land, and the Court shall render judgment accordingly, omitting from said judgment such owner or owners and the land apportioned to such owner or owners in said partition proceeding as the taxes, penalties, interest, and costs have been paid as herein provided.

In addition to the fees now allowed by law to the county, district, or other attorney authorized by law to represent the State and county in suits provided by this Act for delinquent taxes, the judge of the district Court trying the case shall allow such attorney an additional fee for services occasioned by a partition of said land, where a partition is sought, a sum not to exceed Five Dollars (\$5) per acre for each separate tract so partitioned, the same to be taxed as part of the costs against the respective owners in proportion to their interest in the whole, the same to constitute a lien against said land until paid, and when paid shall be paid over by the tax collector to the county, district, or other attorney entitled under the law to receive the same.

"Owner" as herein used shall mean any person, male or female, firm or corporation owning an interest in said land. Added Acts 1945, 49th Leg., p. 302, ch. 219, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

TITLE 125A—TRUSTS AND TRUSTEES**Art. 7425b—2. Definition of trust.**

“Trust” for the purpose of this Act¹ means an express trust only, and does not include (1) resulting or constructive trusts, (2) so-called “Massachusetts Trusts” or similar business trusts, (3) security instruments such as deeds of trust, mortgages and conditional sales contracts, (4) instruments wherein one or more persons are mere nominees for one or more persons without any disclosed beneficiaries and without any active trust duties. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 1.

¹ Articles 7425b—1 to 7425b—47.

Emergency. Effective April 11, 1945.

Art. 7425b—3. Purposes and Capacities

A trust in relation to, or consisting of, real, personal or mixed property may be created or established for any use or purpose which is not illegal. A person has the same capacity to create a trust by declaration, transfer inter vivos, devise, bequest or appointment that he has to transfer, devise, bequeath or appoint free of trust. A person has capacity to create a trust by making a promise to another person whose rights against the promissor are to be held in trust for a third person, to the same extent that he has capacity to make a contract. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 2.

Art. 7425b—7. Requisites of a trust

F. A beneficiary may be a co-trustee and the legal and equitable title to the trust estate shall not merge by reason thereof. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 3.

Amendment of Acts 1945 to subdivision F effective April 11, 1945.

Art. 7425b—12. Trustee buying from or selling to self

A trustee shall not buy nor sell, either directly or indirectly, any property owned by or belonging to the trust estate, from or to itself or an affiliate; or from or to a director, officer, or employee of such trustee, or of an affiliate; or from or to himself, a relative, employer, partner or other business associate; provided a national banking association, or a state chartered bank and trust company, or a state chartered trust company, or a state chartered bank having trust powers, or any other state chartered corporation having the right to exercise trust powers, when acting or serving as executor, administrator, guardian, trustee, or receiver, may sell shares of the capital stock of itself so owned or held by itself, for any estate, to one or more of its officers, stockholders or directors, upon a court of competent jurisdiction finding that any such sale will be to the best interest of the estate owning such shares; fixing or approving the price to be paid therefor, and the terms of sale, and upon entering an order, decree or judgment, authorizing, approving and directing such sale to be made; and provided further that a corporate trustee, executor, administrator, or guardian, when authorized by will, trust agreement, other trust instrument, or judicial order, to retain its own capital stock in trust, may exercise rights to purchase its own stock when increases in its capital stock are offered pro rata to stockholders; provided, moreover, that such exercise of rights, in the circumstances then prevailing, shall be consistent with the judgment and care which

men of ordinary prudence exercise in the management of their own affairs. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 4.

Effective April 11, 1945.

Art. 7425b—14. Corporate trustee buying its own stock

A corporate trustee shall not purchase for a trust, shares of its own stock, or its bonds, obligations, or other securities, or the stock, bonds, obligations, or other securities of an affiliate (as defined herein). A non-corporate trustee shall not purchase for a trust the stock, bonds, obligations, or other securities of a corporation with which such trustee is connected as director, owner, manager, or in an executive or official capacity.

This section shall not prohibit the retention of shares of stock already owned by the trust estate if such retention satisfies the provisions of Section 46 hereof,¹ nor the exercise of stock rights as permitted by Section 12 hereof,² as amended from time to time. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 5.

¹ Article 7425b—46.

² Article 7425b—12.

Effective April 11, 1945.

Art. 7425b—25. Powers, duties, and responsibilities of trustees

G. Generally to execute and deliver any deed or other instrument and to do all things in relation to such trust necessary, desirable, or advisable for carrying out any of the above powers or those considered incident to the purposes of such trust. In addition to the other rights, powers, and authority granted to and conferred upon the trustee of an express trust by this, The Texas Trust Act, the trustee may sell, exchange, transfer, assign, convey, mortgage, or otherwise encumber, lease, contract for the joint exploration and development of the trust property, with other properties, and otherwise contract with reference to oil, gas, or other minerals or natural resources, and mineral rights and mineral royalties, which may be or become a part of the trust estate, upon such terms and conditions, and for such royalties, rents, benefits, and consideration as the trustee may deem to be to the best interest of the trust estate. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 6.

H. Employ attorneys, accountants, agents, and brokers reasonably necessary in the administration of the trust estate; permit real estate held in trust to be occupied by a surviving spouse or minor child of the trustor and, where reasonably necessary for the maintenance of the surviving wife or minor child, to invest trust funds in real property to be used for a home by any such beneficiary, and, in the trustee's discretion, to pay funeral expenses of any beneficiary actually receiving benefits from the trust estate at the time of his or her death. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 7.

L. Unless the instrument creating the trust provides to the contrary, the trustee of any trust created after the effective date of this amendment shall be required to give bond payable to all persons interested in the trust as their interest may appear, conditioned for the faithful performance of the duties as trustee, to be in such amount and with such surety or sureties as the District Court shall, by order entered in a proceeding brought for such purpose, direct and approve. If the proceeding be brought by the person named as trustee, citation in respect thereof shall not be necessary, but the proceeding may be upon ex parte verified petition showing the nature and probable value of the trust estate, and the District Court may, in term time or vacation, hear the ap-

plication and enter such order in respect thereof as the court shall deem proper. If the proceeding be brought by some other person interested in the estate, citation shall issue, as required by law, to the trustee, unless such citation be expressly waived in writing. Any bond made pursuant to the provisions of this Subsection L shall be subject to increase, decrease, or the substitution or addition of another surety or other sureties upon order of the District Court in an action brought by any person interested in the trust estate, as in Section 24¹ hereof provided. Any bond made pursuant to the terms of this Subsection shall be deposited with the Clerk of the District Court in which the order shall have been entered, and suit may be maintained on a certified copy thereof, provided that any recovery thereon shall, upon appropriate proof by the surety or sureties, reduce their liability on such bond pro tanto. Failure to comply with the provisions of this paragraph shall not render void or voidable, or otherwise affect, any act or transaction of the trustee with any third person.

Provided, however, that this Subsection shall not apply to corporate trustees who comply with the law concerning the deposit of securities with the State Treasurer or any one of his authorized deputies. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 8.

¹ Article 7425b—24.

Amendment of Acts 1945 to subdivisions
G, H and L effective April 11, 1945.

Art. 7425b—26. Right of trustee to determine principal and income

This Act¹ shall govern the ascertainment of income and principal, and the apportionment of receipts and expenses between tenants and remaindermen in all cases where an express trust has been created; except that in the establishment of the principal, provision may be made touching all matters covered by this Act, and the person establishing the principal may himself direct the manner of ascertainment of income and principal and the apportionment of receipts and expenses or grant discretion to the trustee or other person to do so, and such provision and direction, where not otherwise contrary to law, shall control notwithstanding this Act. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 9.

¹ Articles 7425b—1 to 7425b—47.

Effective April 11, 1945.

Art. 7425b—33. Disposition of natural resources

Where any part of the principal consists of any interest in lands, including royalties, overriding royalties, and working interest, from which may be taken timber, minerals, oil, gas or other natural resources, and the trustee or tenant is authorized by law or by the terms of the transaction by which the principal or trust was established to sell, lease, or otherwise develop such natural resources, and no provision is made for the disposition of the proceeds thereof, such proceeds, if received as delay rentals on a lease shall be deemed income, but if received as consideration, whether as bonus or consideration for the execution of the lease or as royalties, overriding or limited royalties, oil payments or other similar payments, received in connection with the physical severance of such natural resources, shall be apportioned to principal and income as follows: 27½% of the gross proceeds (but not to exceed 50% of the net, after deducting the expense and carrying charges on such property) shall be treated as principal and invested or held for the use and benefit of the remainderman, and the balance shall be treated as income subject to be disbursed to the tenant or person entitled thereto. Such disposition of proceeds shall apply whether the property is pro-

ducing or non-producing at the time the trust becomes effective. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 10.

Effective April 11, 1945.

Art. 7425b—35. Unproductive estate

B. Such income shall be the difference between the net proceeds received from the property and the amount which, had it been placed at simple interest at the rate of four (4%) per cent per annum for the period during which the change was delayed, would have produced the net proceeds at the time of change, but in no event shall such income be more than the amount by which the net proceeds exceed the fair inventory value of the property, or in default thereof, its market value at the time the principal was established or its costs where purchased later. The net proceeds shall consist of the gross proceeds received from the property less any expenses incurred in disposing of it and less all carrying charges which are chargeable to principal during the period while it has been unproductive. No allocation to income shall be made when the net proceeds from any sale are less than the value of the property as determined by sub-section A of this section. As amended Acts 1945, 49th Leg. p. 109, ch. 77, § 11.

Amendment of Acts 1945 to subdivision B effective April 11, 1945.

Art. 7425b—42. Grantor may direct disposition on failure of trust

Notwithstanding anything contained in Section 41 of this Act,¹ the trustor of a trust may, in its creation, prescribe to whom the real or personal property to which the trust relates shall belong, in the event of the failure, termination, revocation or cancellation of the trust, and may transfer or devise such property, subject to the execution of the trust. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 12.

¹ Article 7425b—41.

Effective April 11, 1945.

Art. 7425b—46. Investment powers of trustee

A. In acquiring, investing, reinvesting, exchanging, retaining, selling, supervising and managing property for the benefit of another, the trustee 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. Within the limitations of the foregoing standard, the trustee is authorized to acquire and retain every kind of property, real, personal, or mixed, and every kind of investment, specifically including but not by way of limitation, bonds, debentures and other corporate obligations, and stocks, preferred or common, which men of ordinary prudence, discretion, and intelligence acquire or retain for their own account; and within the limitations of the foregoing standard, a fiduciary may retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase.

B. Nothing contained in this Section of this Act shall be construed as authorizing any departure from, or variation of, the express terms, provisions or limitations set forth in any will, agreement, court order or other instrument creating or defining the trustee's duties, authority and powers, but the terms 'legal investment' or 'authorized investment', or words of similar import, as used in any such trust instrument, shall

be taken to mean any investment which is permitted by the terms of paragraph A hereof.

C. Nothing contained in this Section of this Act shall be construed as restricting the power of a court of competent jurisdiction to permit and authorize the trustee to deviate and vary from the terms of any will, agreement, or other trust instrument relating to the acquisition, investment, reinvestment, exchange, retention, sale, supervision or management of trust property.

D. The provisions of this Section of this Act shall govern the trustee acting under wills, agreements, court orders and other trust instruments now existing or hereafter made.

E. The provisions of this Section of this Act shall be cumulative of all other provisions of the Civil Statutes of the State of Texas affecting the investment of funds or monies by a trustee. As amended Acts 1945, 49th Leg., p. 109, ch. 77, § 13.

Effective April 11, 1945.

TITLE 126—TRUSTS—CONSPIRACIES AGAINST TRADE

Cabbage standardization and inspection act does not amend, modify, suspend or repeal this title, see art. 118c—2, § 14.

TITLE 128—WATER

I. IRRIGATION AND WATER RIGHTS

CHAPTER ONE—USE OF STATE WATER

1. PUBLIC RIGHTS

Art. 7466f. Pecos River compact

Acts 1945, 49th Leg., p. 206, ch. 159, effective May 3, 1945, reads as follows:

"Section 1. The Governor of this state shall, with the advice and consent of the Senate, appoint some qualified person a Commissioner to represent the State of Texas in conference with a Commissioner duly appointed to represent the State of New Mexico, and a representative of the Government of the United States, to negotiate an agreement respecting the use, control and disposition of the waters of the Pecos River and its tributaries.

"Sec. 2. The Commissioner appointed to represent the State of Texas shall hold office for two years and until his successor is appointed and qualifies. He shall take the oath of office prescribed by the Constitution and in addition thereto he shall take oath to faithfully perform the duties incumbent upon him as such Commissioner. The Commissioner shall have authority to meet and confer with the other members of the Commission at such points within the States of Texas and New Mexico, and elsewhere, as the Commission may see fit. Such Commissioner is authorized to make the necessary investigations and procure the necessary data for the proper performance of his duties, and may, with the approval of the Governor, employ such clerical, legal, engineering and other assistance as may be necessary in the performance of such duties.

"Sec. 3. Any agreement which may be entered into between the Commissioner on

behalf of the State of Texas and the Commissioner on behalf of the State of New Mexico, and the representative of the United States shall be reduced to writing and submitted to the Governor of this state; but such agreement shall have no binding effect upon the State of Texas or any of its legal representatives until the same have been ratified by the Legislature of this state and approved by the Governor, nor until ratified by the Legislature of New Mexico and consented to by the Congress of the United States.

"Sec. 4. The State Board of Water Engineers shall furnish the Commissioner appointed hereunder such factual data and information as they may have available and shall cooperate with the Commissioner in the performance of his duties.

"Sec. 5. In the event it appears improbable for the Commissioner appointed hereunder to negotiate an agreement with New Mexico as called for, the Commissioner shall so report to the Governor and shall, at that time, make available to the Attorney General of Texas all information obtained by him, and said Attorney General may thereupon, if deemed advisable by him, commence to prosecute such suits as will protect the rights of the people of Texas relating to the waters of the Pecos River.

"Sec. 6. Chapter 632, Acts of the Regular Session of the 47th Legislature is hereby repealed."

3. REGULATION OF USE

Art. 7548. When lawful to use banks and beds

For the purpose of conveying and delivering storm, flood or rain water from the place of storage to the place of use as provided in the preceding Article, or of conveying and delivering the same to the diversion plant of the appropriator thereof, it shall be lawful for any person, association of persons, corporation, water improvement or irrigation district, to use the banks and beds of any flowing natural stream within this State, under and in accordance with such rules and regulations as may be prescribed by the Board of Water Engineers and such Board shall prescribe rules and regulations for such purpose. No person, association of persons, corporation, water improvement or irrigation district who has not acquired the right to the use of such conserved or stored

waters, as provided in the last preceding Article or the right to appropriate the same shall take, use or divert same. As amended Acts 1945, 49th Leg., p. 313; ch. 228, § 1.

Emergency. Effective May 23, 1945.

CHAPTER TWO—WATER IMPROVEMENT DISTRICTS

Art.

7700c. Refunding bonds for retirement of amortization bonds [New].

Art. 7642. Qualifications of tax assessor and collector

Assessor, collector and equalization board acting for included municipality or district, see art. 1066b.

Art. 7661. Board of Equalization

Assessor, collector and equalization board acting for included municipality or district, see art. 1066b.

Art. 7700c. Refunding bonds for retirement of amortization bonds

Section 1. Any water improvement district or conservation and reclamation district operating under authority of Section 59, Article 16 of the Constitution of Texas, which shall at the time this Act becomes effective or thereafter have outstanding and unpaid bonds providing for the annual or semi-annual payment of interest and principal in a single amount represented by coupons issued pursuant to the provisions of Chapter 78, Acts of the 43rd Legislature, 1933,¹ hereinafter called "amortization bonds", is authorized to issue refunding bonds with the principal amount thereof to be evidenced by the bonds, and interest thereon to be represented by coupons in such an amount that the aggregate payments scheduled to be made on account of principal and interest of the refunding bonds shall not exceed the amount of the unpaid amortization coupons of the outstanding amortization bonds, bearing interest not exceeding four per cent (4%) per annum and maturing serially or otherwise not more than forty (40) years from their date. Such refunding bonds may be exchanged for said amortization bonds or within the discretion of the governing body of such district may be sold at not less than par and accrued interest, and the proceeds applied to the purchase and retirement of said amortization bonds.

Sec. 2. No such refunding bonds shall be issued until the proposition for the issuance thereof shall have received a majority vote of the qualified resident property taxpaying voters of such district voting at an election called and held for said purpose. The question shall be submitted at said election as to whether an ad valorem tax shall be levied and collected sufficient for the payment of the principal of and the interest on the refunding bonds. Within its discretion the governing body of such district may submit an alternative question as to whether said refunding bonds shall be supported by taxes levied, assessed and collected against all land in the district upon an equitable basis in proportion to benefits conferred by operation and maintenance and the works and improvements provided by the district. The date for holding such election shall be not less than twenty-one (21) days from the date of the order calling the election, and a notice stating the maximum amount of bonds to be issued, the maximum interest rate, the maximum maturity date of the bonds, the time and places of holding the election

shall be given by the Secretary of the Board of Directors by posting copies thereof in four public places within the district and one at the courthouse door of the county in which the district is situated. Such notice shall also be published once a week for two consecutive weeks in a newspaper of general circulation published in the county in which the district is located, or if none is published in said county then in an adjoining county. The first publication shall be at least fifteen days prior to the date fixed for the election.

Sec. 3. The manner of conducting such election shall be governed by the general election laws of the State of Texas except as herein otherwise provided. Only resident qualified property taxpaying voters who have duly rendered property for taxation in said district shall be entitled to vote at such election. The Directors of such district shall name the places of holding said election and shall select the officials to hold said election, one of whom shall be designated as the presiding judge, one as judge, and two as clerks for each voting precinct designated in the resolution calling the election. The ballots shall be provided by the Board of Directors and shall have written or printed thereon these words:

For the Issuance of Bonds and Levy of a Tax in payment thereof",
and

Against the Issuance of Bonds and Levy of a Tax in payment thereof". A voter shall draw a line through one of said expressions, leaving the other as expressing his choice.

Sec. 4. Returns of such election shall be made to the Board of Directors in the manner provided by law in general elections and the Board shall at a regular or special meeting called for such purpose canvass said returns and declare the result thereof. Thereafter the Board shall adopt a resolution authorizing the issuance of such refunding bonds and levying a tax sufficient to pay the principal of and interest on such bonds as such principal and interest matures.

Sec. 5. Before said bonds shall be sold or exchanged the bonds and the proceedings authorizing their issuance shall be submitted to and approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts in the manner and with the effect provided in Articles 709 to 715, inclusive, Revised Civil Statutes, 1925, in reference to bonds issued by cities and counties; or in the alternative, the refunding bonds and the taxes or assessments levied to pay the principal thereof and the interest thereon may be adjudicated in the manner and with the effect as provided in Articles 7703 to 7707 inclusive, of the Revised Civil Statutes of 1925. The Comptroller shall not register said refunding bonds until the amortization bonds, in lieu of which they are to be issued, are presented to him for cancellation or until there has been filed with him an authenticated copy of a contract for the purchase by the district of a proportionate amount of amortization bonds. Such refunding bonds may be thus registered and delivered in installments, provided that in the event of the sale of such refunding bonds the district shall furnish to the Comptroller at the time of each installment delivery a certificate to the effect that a proportionate amount of amortization bonds has been cancelled. Such certificate shall be filed with the Comptroller of Public Accounts and become a part of the permanent records of such office.

Sec. 6. As to each district which has heretofore issued amortization bonds, it is hereby found that the lands situated therein have been benefitted by its operation and maintenance and by the improvements constructed or provided with the proceeds of the original bonds for which said amortization bonds were substituted to an amount not less

than the taxes or assessments heretofore levied or assessed and the sufficient amount of taxes or assessments to be levied and collected to provide for the payment of the principal of and interest on the refunding bonds issued pursuant to this Act.

Sec. 7. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby. Acts 1945, 49th Leg., p. 607, ch. 350.

¹ Article 7700a.

Emergency. Effective June 18, 1945.

Title of Act:

An Act authorizing the issuance of refunding bonds in lieu of amortization bonds issued by water improvement districts or conservation and reclamation districts under authority of Chapter 78, Acts of the 43rd Legislature; prescribing the method of issuing such refunding bonds; requiring an election on the issuance of the refunding bonds and on the question as to whether said bonds shall be supported by an ad valorem tax or by a tax levied upon an equitable basis in pro-

portion to benefits; prescribing the duties of the Comptroller of Public Accounts in reference thereto; providing for approval by the Attorney General and the effect thereof, or in the alternative the adjudication thereof by court of competent jurisdiction and the effect thereof; making a finding as to benefits which have accrued to lands in such districts; prescribing a severability clause; enacting other provisions relating to the subject; and declaring an emergency. Acts 1945, 49th Leg., p. 607, ch. 350.

Art. 7775c—1. Exclusion from improvement districts of land which is not agricultural or not practicably subject to irrigation

That after any water improvement district or water control and improvement district has been organized and acquired facilities with which to function as an irrigation district and has voted, issued and sold bonds for any purpose pertaining to the purposes for which said district was organized, and there are any lands within the boundaries of said district subject to taxation thereby and which are not agricultural lands, or are of such a nature as cannot be irrigated in a practicable manner, same may be excluded from the district, only by means and upon conditions as follows:

(a) Upon the application of the owner of such land which is not agricultural land or which is of such a nature as cannot be irrigated in a practicable manner;

(b) on the condition that all taxes levied and assessed by said district upon said lands to be excluded have been fully and completely paid, including all bond tax and flat water rate assessment of whatsoever kind and character;

(c) with the consent of ninety-five per cent (95%) of the holders of all outstanding bonds theretofore voted, issued, sold and delivered by said district;

(d) upon the condition that land of at least an equal acreage and at least of equal value to that being excluded and which can be irrigated in a practicable manner is added to the district simultaneously with the exclusion of said land not agricultural or not capable of being irrigated in a practicable manner, the new land to be added upon application of the owner of said new land, such application setting forth that the owner thereof assumes the payment of all taxes to be levied upon such new land by said district from and after the date the same is added to said district, and further setting forth the agreement on the part of such owner that said land shall be subject to future taxes by said district for bond tax and flat rate and all other assessments levied and as-

essed by said district, as though same had been originally incorporated into said district, and the same shall be subject to the same liens and provisions as all other lands within the district and covered by the Statutes governing same;

(e) upon the application of any owner of land within the district which is not agricultural or not capable of being irrigated in a practicable manner to have said land excluded from the district, the Board of Directors of such district may require such owner to procure an application of the owner of lands adjoining the boundaries of said district or adjoining the canals of such district, who owns land capable of being irrigated in a practicable manner from the facilities of said water district, for the including in the district of the lands of such owner in an amount and value at least equal to the lands which are to be excluded under the application of the owner thereof. Each of such applications shall set forth the facts concerning the lands to be excluded from and the lands to be added to such district, together with some showing of their reasonable market value; the Board of Directors upon receiving such applications shall communicate the contents thereof to the holders of bonds payable from taxes levied upon property within the district, then outstanding, and when ninety-five per cent (95%) or more of said bondholders have consented in writing to such plan of excluding certain land, from the district, which is not agricultural or not capable of being irrigated in a practicable manner and the including of other lands which can be irrigated in a practicable manner from facilities of said district, and such consent is filed with the Board of Directors of said district, the Board of Directors may hold a hearing on such applications by giving notice thereof by one publication of the time and place and nature of said hearing, in a newspaper published in the county or a county in which such district or some part thereof is situated, having circulation in the district, and which has been published regularly for more than twelve (12) months next preceding the date of such publication, said publication to be at least ten (10) days before such hearing and not more than twenty (20) days before same.

Upon hearing, the Board of Directors shall hear all evidence in connection with same, and shall hear any and all interested parties, and should the Board of Directors find that all of the conditions herein provided for such exclusion of lands and inclusion of lands in said district exist, the Board of Directors may by resolution adopted and spread upon the minutes exclude said land, which is not agricultural or not capable of being irrigated in a practicable manner, and include the land which may be irrigated from the facilities of the district in a practicable manner, and thereafter the lands excluded shall be free from any lien or liability created on same by reason of its having been included in said district and the lands added by such resolution shall be subject to all laws, liens, and provisions governing such district and the lands within same.

It shall be the duty of the Board of Directors of the district, within thirty (30) days after the inclusion and exclusion of lands under this Act, to furnish the Board of Water Engineers of this State with (1) a detailed description of the lands so excluded, and (2) a detailed description of the lands so included. The district may furnish water service to the included lands as it previously had the right to furnish to the excluded lands; provided, however, that the mere inclusion of a larger total acreage than that excluded shall not of itself be construed as giving such district the right to irrigate a larger total acreage or to appropriate a larger quantity or volume of the public waters for irrigation than such district would have had the right so to irrigate or so to ap-

propriate prior to the exclusion and inclusion of the lands. As amended Acts 1945, 49th Leg., p. 417, ch. 265, § 1.

Emergency. Effective May 28, 1945.

CHAPTER 3A—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.

Art. 7880—61. Board of equalization

Assessor, collector and equalization board acting for included municipality or district, see art. 1066b.

II. LEVEES

CHAPTER SIX—LEVEE IMPROVEMENT DISTRICTS

1. ESTABLISHMENT

Art.

8018a. Counties over 390,000 refunding bonds in [New].

1. ESTABLISHMENT

Art. 8018a. Counties over 390,000, refunding bonds in

Any levee improvement district, operating under the assessed benefit plan of taxation, and situated in a county having a population of more than three hundred and ninety thousand (390,000) inhabitants, according to the preceding Federal Census, shall have the right to issue refunding bonds payable, serially or otherwise, not exceeding seventy-five (75) years from the date thereof, within the discretion of the Commissioners Court of such county, for the purpose of refunding any outstanding bonds legally issued by such district and outstanding matured interest coupons pertinent to any legally issued outstanding bonds of such district, and such refunding bonds shall be issued in conformity with the provisions of Article 8018, Revised Civil Statutes of Texas, 1925, relating to the issuance of refunding bonds by other levee improvement districts. Added Acts 1945, 49th Leg., p. 224, ch. 167, § 1.

Emergency. Effective May 7, 1945.

Title of Act:

An Act adding to Chapter 6, Title 128, Revised Civil Statutes of Texas, 1925, a new Article to be designated as Article 8018a, authorizing any levee improvement district operating under the assessed benefit plan of taxation and situated in a county having a population of more than three hundred and ninety thousand (390,000) inhabitants, according to the preceding Federal Census, to issue refunding bonds for the purpose of refunding legally issued outstanding bonds and matured interest

coupons of said district; providing that such refunding bonds shall be issued in conformity with the provisions of Article 8018, Revised Civil Statutes of Texas, 1925, relating to the issuance of refunding bonds by other levee improvement districts; providing that such refunding bonds may be issued by such levee improvement district, payable, serially or otherwise, not exceeding seventy-five (75) years from the date thereof; enacting provisions incident and relating to the subject and purpose hereof; and declaring an emergency. Acts 1945, 49th Leg., p. 224, ch. 167.

III. DRAINAGE

CHAPTER SEVEN—DRAINAGE DISTRICTS

3. ABOLITION [NEW]

Art.

8193—1. Abolition of drainage districts in counties having flood control or conservation or reclamation district.

3. ABOLITION [NEW]

Art. 8193—1. Abolition of drainage districts in counties having flood control or conservation or reclamation district

Section 1. In all counties in Texas, where there shall have been created, or shall hereafter be created, by the Legislature of the State of Texas, or under authority of an Act of the Legislature, pursuant to the provisions and under authority of Section 59 of Article XVI of the Constitution of Texas, a flood control district, or conservation and reclamation district, composed of all or a portion of the territory of such county, and one or more drainage districts had theretofore been organized under the authority of and pursuant to the provisions of Chapter 7, Title 128, Revised Civil Statutes, 1925, Articles 8097, et seq., which lie wholly within the boundaries of such flood control district, or conservation and reclamation district, such drainage districts may be abolished in the manner provided by this Act; and when so abolished, no such drainage district shall thereafter be organized which shall include within its boundaries any portion of any territory theretofore incorporated within the boundaries of such flood control district or conservation and reclamation district.

Sec. 2. The Commissioners Court of the above mentioned counties upon its own motion, may, or upon presentation to it of a petition as hereinafter provided, shall, order an election. Upon presentation to the Court of a petition signed by twenty-five (25) or more of the resident qualified property taxpaying voters residing in each of such drainage districts which have an outstanding bonded indebtedness, or if there be fewer than twenty-five (25) resident qualified taxpaying voters in any of said districts, then upon a petition of a majority of the voters of any such districts, praying that an election be ordered for the purpose of determining whether or not such drainage districts having outstanding bonded indebtedness shall be abolished, the Commissioners Court shall order an election to be held within the flood control district or conservation and reclamation district for the purpose of determining whether or not such drainage district or districts shall be abolished and the outstanding bonded and other indebtedness shall be assumed by such flood control district or conservation and reclamation district within the boundaries of which such drainage districts lie. Notice of such election shall be given by posting notices thereof at three (3) public places in each of such districts, and by posting one copy at the Courthouse door at the county seat; or by publishing such notice once each week for two (2) consecutive weeks in a newspaper of general circulation in the county in which such districts are situated; or by both such publication and posting.

Sec. 3. If there shall be any drainage district lying wholly within the boundaries of any flood control district, or conservation and reclamation district, composed of all or a portion of the territory of any of the counties within the above class, which such drainage district shall

not have any outstanding bonded indebtedness, then, the Commissioners Court may abolish such drainage district or districts having no such outstanding bonded indebtedness in the manner herein provided. Said Court shall, by an order duly entered in its minutes, give notice of its intention to abolish such drainage district or districts, and such order shall be published in full in one or more newspapers of general circulation within such district or districts, (or if there be none in the district or districts, then in the county) once each week for two (2) consecutive weeks; and such order shall provide for a date, time and place for a hearing upon the question of the abolition of such district. At the time and place appointed, any person or persons interested in the abolition of such district or districts shall have the right to be present and to be heard upon the question of whether or not such district shall be abolished. Such person or persons shall have the right to present such evidence to the Court as may bear upon the question. He or they shall have the right to be represented by counsel, and the Court shall conduct a full hearing thereon. If there be no opposition to the abolition of such district, or if the Court shall determine, under the evidence, that it is to the public interest to abolish such drainage district, or districts, having no outstanding bonded debt, then the court shall enter its order declaring such drainage district, or districts, to be abolished, and the territory theretofore included therein shall be and become a part of the territory of such flood control district or conservation and reclamation district, and shall be subject to all of the laws governing such flood control district or conservation and reclamation district. All of the contracts, property and funds of such drainage district, including its current and delinquent taxes, sinking funds and all drains theretofore constructed by it, shall pass into the control of and be subject to the jurisdiction of the officers of the flood control district, or conservation and reclamation district, and the laws governing them, to the same extent and in the same manner as if such drainage district had never theretofore existed. Current obligations unpaid at the time of abolition shall be paid by the flood control or conservation and reclamation district out of funds of the abolished district.

Sec. 4. Elections provided for in Section 2 shall be held by the officers regularly holding elections at the usual voting boxes in the flood control district or reclamation and conservation district, and shall be held on the next general election day succeeding the making of the order; or, if, in the judgment of the Commissioners Court, it shall be necessary, to hold a special election and to name special officers to hold such election, such court may do so in the order calling the election, and shall also designate the place or places of holding such election. The election shall be held as near as may be at the usual places where general elections are held, and shall be subject to the laws governing general elections except as otherwise herein expressly provided. Only qualified electors who own taxable property in the flood control district, or conservation and reclamation district, and who have duly rendered it for taxation, shall be qualified to vote in such election, and all electors shall vote in the election precinct of their residence.

Sec. 5. The returns of such election shall be made to the Commissioners Court within five (5) days after it is held, and it shall enter an order in its minutes declaring the result. If a majority of the votes cast at such election shall be in favor of the proposition submitted, then the Commissioners Court shall have the authority thereafter to levy a special additional tax on all of the taxable property, tangible and intangible, and all rolling stock and other property to the same extent as property is taxable by the county, within the boundaries of the flood control district.

or conservation and reclamation district, sufficient to pay all of the outstanding bonded and other indebtedness of the drainage districts, in accordance with the terms of such obligations then outstanding. The drainage district taxes shall not thereafter be further levied.

Sec. 6. All taxes due and owing to any drainage district at the time of its abolition as hereinabove provided shall be and become an obligation due and owing to the flood control district or conservation and reclamation district; and the flood control district or conservation and reclamation district may, in its own name, or in the name of the drainage district, enforce the payment of such taxes, and foreclose the lien securing the payment thereof. All of such taxes when collected shall be applied to the retirement of the outstanding bonded or other indebtedness of such district; and if, or when, such outstanding or other indebtednesses be paid in full, such funds may be used for such purposes as may be authorized by law for the general funds of such flood control, or conservation and reclamation district. All sinking funds on hand at the time of the abolition of such drainage district shall be applied to the retirement of the outstanding bonded or other indebtedness; and when such outstanding bonded or other indebtedness is fully paid, such funds may be expended for any purpose for which other funds of the flood control or conservation and reclamation district are authorized by law to be expended.

Sec. 7. In declaring the result of the election provided for in Section 2, the Commissioners Court shall have the power to fix the date that the abolition of the drainage districts shall become effective. Upon the date fixed by the Commissioners Court in declaring such result, the territory theretofore included within such drainage district or districts shall be and become a part of the territory of the flood control district or conservation and reclamation district, and shall be subject to all of the laws governing such flood control district or conservation and reclamation district. No tax shall be levied, assessed or collected in the flood control district or conservation and reclamation district until the abolition of the drainage districts shall have become effective as provided in the order of the Commissioners Court declaring the result of the election. All of the property and funds of such drainage districts shall, upon such effective date, pass into the control of and be subject to the jurisdiction of the officers of the flood control district, or conservation and reclamation district, to the same extent and in the same manner as if such drainage districts had never theretofore existed.

Sec. 8. After the abolition of such drainage districts, as hereinabove provided, no other drainage districts shall be created within the boundaries of the flood control district or conservation and reclamation district. The provisions of this law shall control in the counties to which it applied over the provisions of any other laws authorizing or regulating drainage districts. Acts 1945, 49th Leg., p. 186, ch. 143.

Emergency. Effective May 1, 1945.

Title of Act:

An Act to provide for the abolition of drainage districts in all counties in this State where there shall have been created or may hereafter be created by the Legislature, or under its authority, a flood control district or conservation or reclamation district composed of all or a portion of the territory of such counties, pursuant to the provisions and under authority of Section

59 of Article XVI of the Constitution, whose territory includes such drainage districts; providing for the payment of the outstanding bonded and other indebtednesses of such districts; authorizing and requiring actions by the Commissioners Court; providing for elections, for the payment of outstanding bonded and other indebtedness, for the levy and collection of taxes; and declaring an emergency. Acts 1945, 49th Leg., p. 186, ch. 143.

IV. CONSERVATION AND RECLAMATION

CHAPTER EIGHT—CREATION OF DISTRICTS

Art. 8194. Creation

Abolition of drainage districts in counties having conservation and reclamation districts, see art. 8193—1.

Art. 8197f. Condemnation of cemeteries by conservation and reclamation districts and similar districts

WATER SUPPLY AND CONTROL

The following laws, though passed as general laws, are in fact special acts relating to particular conservation and reclamation districts or authorities:

Bexar County Metropolitan Water District

Acts 1945, 49th Leg., p. 491, ch. 306, creating the Bexar Metropolitan Water District, read as follows:

"Section 1. In obedience to the provisions of Article 16, Section 59 of the Constitution of Texas, there is hereby created Bexar Metropolitan Water District, hereinafter in this Act sometimes called the 'District.'

"Sec. 2. The District is hereby created as a governmental agency, a body politic and corporate, and a municipal corporation, vested with all the authority as such under the Constitution and laws of the State of Texas; and shall have and be empowered to exercise all the rights, privileges, functions, and powers of such governmental agency and body politic and corporate as authorized or implied by the provisions of Article 16, Section 59 of the Constitution and as have been or may be conferred by General Law upon conservation districts and as authorized or implied by the provisions of this Act, for the purpose of controlling, conserving, protecting, preserving, distributing, and utilizing the storm and flood waters of the rivers and streams situated in said District and the underground waters situated thereunder and for the purpose of regulating and controlling the disposal of sewage, wastes, and other refuse, and the collection and disposal thereof, to prevent the contamination and pollution of the public waters of the District. It shall have the power to formulate and execute any and all plans deemed essential to the accomplishment of the purposes for which it is created and shall be recognized to have such authority and power of control and regulation over the storm and flood waters of its rivers and streams and its underground waters as may be exercised by the State of Texas, subject to the provisions of the Constitution and Section 4 of this Act.

"Sec. 3. In addition to the powers vested by the Constitution and general laws in such public agency for the greatest practicable measure of the conservation, preservation, and beneficial utilization of its public waters, the power to control and utilize its public waters and to regulate the disposal and the disposal of sewage, waste, and refuse, the District shall have the following general powers:

"(a) Through every practical and legal means to control and regulate and to coordinate the control and regulation of the waters of the watershed of the San Antonio River and tributaries in the District and the storm and flood and underground waters of the District, including the power to cooperate with the United States Government or any agency thereof, or any municipality, public, quasi-public or private agency and to contract, negotiate, and enter into agreements with any one or more of such agencies in effecting such purposes;

"(b) to store, control, and conserve storm and flood waters of its rivers and streams and to prevent the escape of any such waters without first obtaining therefrom a maximum of public service; to prevent devastation of property from overflow and to protect life and property from uncontrolled flood and storm waters;

"(c) to conserve and distribute waters essential for domestic and other uses by the inhabitants of the District, including necessary water supply for cities and towns situated within the District;

"(d) to provide for the development of drainage systems to control, regulate, and dispose of all storm and flood waters of the District so as to protect effectively lives and property, and to utilize such waters for each and every purpose for which flood and storm waters when controlled, conserved, or regulated may be utilized as contemplated by the Constitution and the public policy therein declared;

"(e) to provide by purchase, construction, lease, gift, or in any other manner and to operate any and all facilities deemed by the District essential for pre-

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servicing the purity of all the surface and underground waters of the District for the protection of the health of its inhabitants, and to formulate plans to make and enforce rules and regulations for the effective disposal of any and all sewage wastes, refuse, or residuum, however accumulated; which otherwise would contaminate, pollute, or render unsafe and insanitary the surface and underground waters of the District and which might threaten or impair the health of its inhabitants or which might adversely affect the health of the inhabitants downstream below the District;

"(f) to acquire by purchase, construction, lease, gift, or in any other manner (otherwise than by condemnation) and to maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest therein within or without the boundaries of the District deemed by its Board of Directors necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act;

"(g) to acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within or outside of the boundaries of the District, necessary to the exercise of the powers, rights, privileges, and functions conferred by this Act, in the manner provided by General Law relative to condemnation, or at the option of the District, in the manner provided by law with respect to condemnation by agencies organized pursuant to Section 59, Article 16 of the Constitution of the State of Texas; provided that the District shall not have the right or power to so condemn any such property that may be owned by any other political subdivision, city, or town located within the District;

"(h) to cooperate, contract, and enter into agreements with towns, cities, districts, or political subdivisions located in or outside of the District and with Bexar County, in the construction, purchase, lease, maintenance, improvement, use, and operation of any and all facilities, works, and plants necessary or convenient to the accomplishment of the purposes for which the District was created;

"(i) to make contracts with any person, private corporation, municipal corporation, political subdivision, or the Board of Trustees thereof, operating water distribution facilities for the benefit of a city or town within the District, under which the District may perform services for such parties or such parties may perform services for the District, or under which either may operate all or any part of the facilities of the other, having due regard for the duties and obligations of such parties in the instrument prescribing their or its duties;

"(j) to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, or reconstructed and to use and operate any

and all facilities of any kind necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred by this Act;

"(k) to sue and be sued in its corporate name;

"(l) to make by-laws for the management and regulation of its affairs conformably to the powers and purposes herein conferred and consistent with the Constitution of this State;

"(m) to make rules and regulations and to prescribe penalties for the breach of any rule or regulation of the District, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200), or imprisonment for 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 in the county in which the district's principal office is located; provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five 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 consecutive weeks, in one or more newspapers affording general circulation in the area in which the property of the district is situated; and, the substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the object sought to be accomplished or 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 regulation 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 ordinances of a city of the State;

"(n) to adopt, use, and alter a corporate seal;

"(o) to appoint agents and employees; prescribe their duties and fix their compensation;

"(p) to make contracts and execute instruments necessary or convenient to the

exercise of the powers, rights, privileges, and functions herein conferred;

"(q) to borrow money for its authorized purposes, to accept grants or loans or allotments from the United States Government or any of its agencies, or others, and in connection with any such grants, loans, or allotments to enter into such agreements as may be required to make them effective, and for the purpose of obtaining funds to issue its negotiable tax bonds and its negotiable revenue bonds in the manner and to the extent hereinafter provided;

"(r) to operate and maintain with consent of the governing body of any city, town, or political subdivision located in the District any works, plants, or facilities deemed necessary or convenient to the accomplishment of the purposes for which the District is created.

"Sec. 4. (a) The powers vested in and the duties devolved upon the District in this Act are subject to the continuing right of supervision of the flow waters of its rivers and streams and the impounding of flood waters, by the State Board of Water Engineers, and in instances where the plans of the District provide for the use of water from any rivers or streams or the impounding of any flood waters thereof, it shall submit such plans to the State Board of Water Engineers for approval as to efficacy and shall make application for a permit as required by law;

"(b) Where the general plans of the District provide for the disposal of sewage and wastes, such plans shall be submitted to the State Board of Water Engineers for approval as to compliance with the provisions of Article 848a of the Penal Code of Texas.

"Sec. 5. The District is hereby created and established, situated wholly in Bexar County, Texas, having the following metes and bounds:

"Beginning at the intersection of the North line of Chavanoux Road with East line of U. S. Highway 281,

"Thence North along East side of U. S. Highway 281 to its intersection with the North line of Ashley Road,

"Thence West along the North line of Ashley Road to the East line of Pleasanton Road,

"Thence South along the Eastline of Pleasanton Road to an intersection with the North line of Baatz Boulevard,

"Thence West along the North line of Baatz Boulevard near Six Mile Creek to an intersection with the East line of the Right-of-Way boundary of the Sau & G Railroad,

"Thence North along the East Railroad Right-of-Way line across Six Mile Creek to an intersection with the corporate city limits of San Antonio at Military Drive,

"Thence West along the corporate limit line to an intersection with the West line of Somerset Road,

"Thence Southwesterly along the West

line of Somerset Road to a point on the South limits of South San Antonio being between Arcadia Avenue and Virginia Avenue,

"Thence West along the South boundary of South San Antonio to its intersection with Washington Street,

"Thence South along the East line of Washington Street which is the boundary of South San Antonio to its intersection with the South line of Virginia Avenue,

"Thence West along the South line of Virginia Avenue which is the boundary of South San Antonio to its intersection with the West line of Quintana Road,

"Thence Northeast along the West line of Quintana Road to its intersection with the South line of Military Drive,

"Thence In a Westerly direction along the South line of Military Drive to its intersection with the west line of the G H & S A Right-of-Way,

"Thence In a Southwesterly direction along the West Right-of-Way line of the G H & S A which line is also a boundary of Kelly Field to the Southeast corner of County Block No. 5441,

"Thence West along the common boundary of County Block Nos. 5441 and 5442 to its intersection with the East bank of Leon Creek,

"Thence In a Northwesterly direction along the East bank of the Leon Creek to its intersection with the North side of Military Drive,

"Thence In a Northwesterly direction across Leon Creek and along the North side of Military Drive to its intersection with the South line of U. S. Highway No. 90,

"Thence In an Easterly and Northeastly direction along the South line of U. S. Highway No. 90 to its intersection with the East line of Acme Road,

"Thence North along the East line of Acme Road to the North line of Commerce Street,

"Thence West along the North line of Commerce Street to the East line of Callaghan Road,

"Thence North along the East line of Callaghan Road which is the approximate divide between Leon Creek and Alazan Creek, and continuing along the Southeast line of Callaghan Road across the headwaters of Alazan to its intersection with the Northeast line of Fredricksburg Road,

"Thence Northwest along the Northeast line of Fredricksburg Road to its intersection with the South line of Kenney Road,

"Thence Northeast along the Southeast line of Kenney Road to its intersection with the Southwest line of Keller Road,

"Thence Southeast along the Southwest line of Keller Road across the headwaters of Olmos Creek to its intersection with the East line of San Pedro Avenue,

"Thence North along the East line of San Pedro Avenue across the upper reaches of Olmos Creek to the Southeast line of Isom Road,

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"Thence In a Northwesterly direction along the Southeast line of Isom Road to meet the City of San Antonio corporate line on the Northwest side of the Airport,

"Thence Northeast along the City of San Antonio corporate line bounding the airport to the Bitters Road,

"Thence Southeast along the City of San Antonio corporate line and the Airport boundary to the Wetmore Road,

"Thence Southwest along the City of San Antonio corporate line and the Wetmore Road to the North Loop Road,

"Thence Southeast following the City of San Antonio corporate line along the North Loop Road to its intersection with the South line of the Military (Camp Bullis) Road,

"Thence East along the South line of the Military Road and South along the West line of Military Road across the upper reaches of Salado Creek and across U. S. Highway 81 to its intersection with the South line of Rittiman Road,

"Thence East along the South line of the Rittiman Road to its intersection with the West bank of Salado Creek,

"Thence Downstream along the West Bank of the Salado Creek and the West channel of the Salado Creek to a point where it intersects the South line of John's subdivision,

"Thence In a Southwesterly direction to a point on the West side of Goliad Road 2577' Northwest of the Goliad Road and Military Drive intersection.

"Thence In a Southeasterly direction along the West line of Goliad Road across Military Drive and along the East boundary of Brooks Field to its intersection with the North line of San Juan Road,

"Thence West along the North line of San Juan Road which is the boundary of Brooks Field to its intersection with Southton Road,

"Thence North along the East line of Southton Road which is the boundary of Brooks Field to its intersection with the North line of the old Corpus Christi Road which is the boundary of Brooks Field,

"Thence West and Northwest along the North and Northeast line of the old Corpus Christi Road the Right-of-Way of which is now included in the Brooks Field Reservation to its intersection with the South line of the South Loop Road,

"Thence In a Westerly direction along the South line of the South Loop Road across U. S. Highway 181 of the Right-of-Way of the SA & AP Railroad to its intersection with the East bank of the San Antonio River.

"Thence South along the meandering of the River to a point of intersection between the East bank of the River and the North line of Chavanaux Road, extended,

"Thence West along the North line of Chavanaux Road, extended, and the North line of Chavanaux Road to the point of beginning,

"except the area embraced within the corporate limits of the cities of Alamo

Heights, Olmos Park and Terrell Hills as of the effective date of this Act.

"Sec. 6. Areas of territory not included within the limits of any incorporated village, town or city, and not in the District, as hereinabove defined, may be annexed to the District in the following manner:

"(1) A petition praying for annexation of such territory or by fifty (50) such taxpayers if the number of such taxpayers is more than fifty, may be presented to the Board of Directors and filed with the secretary of said Board. Said petition shall describe by metes and bounds the territory sought to be annexed.

"(2) The Board of Directors after considering said petition may adopt a resolution fixing a time and place at which such petition shall be heard, which time shall be not less than thirty (30) days from the date of such resolution and notice of such hearing shall be posted in three (3) public places within the District and in one (1) public place in the territory proposed to be annexed, which posting shall be made not less than fifteen (15) days before the date of said hearing; also, said notice shall be published in a newspaper of general circulation in the County one time at least fifteen (15) days prior to the date of said hearing. Said notice shall state the time and place of the hearing and describe by metes and bounds the territory proposed to be annexed.

"(3) If upon the hearing of such petition it is found by the Board that the annexation of such territory or any part thereof, would be to the advantage and best interest of the District and that the work, plants and facilities of the District adequate to serve the additional territory without injury to or impairment of other lands and properties in the District, the Board by resolution duly adopted may receive such territory, or any part thereof, into the District.

"(4) Any territory thus annexed shall bear its pro rata part of all indebtedness owed, contracted or authorized by the District, provided that the annexation of any such territory shall not become final until the pro rata part of the indebtedness owed, contracted or authorized by the District shall have been assumed by a majority vote at an election called and held for the purpose of submitting to the qualified property taxpaying voters residing in the territory annexed the proposition of the assumption of the indebtedness owing at that time and the authorization of the levy of the tax or taxes in payment thereof and at the same election there may be submitted the proposition of voting a maintenance tax. The manner of calling and holding such elections shall be in all things governed by the provisions of Chapter 25, General Laws of the Thirty-ninth Legislature, Regular Session, 1925, as amended relating to elections to vote bonds and levy taxes.

"Sec. 6a. If any territory, whether or not incorporated as a city or town, which

may be located within or without the perimeter of the District as defined by this Act and which is not a part of the District, should be annexed to and become a part of the City of San Antonio, the boundaries of the District shall automatically be extended so as to include territory thus annexed to the City of San Antonio provided however that such inclusion shall not become final until an election has been held and a majority of the qualified property taxpaying voters residing in the territory annexed have voted to assume the indebtedness and taxes then owed, contracted or authorized by the District. Such election shall be called, held and conducted in the same manner as the elections provided in paragraph (4) of Section 6.

"Sec. 7. When this Act becomes effective the Commissioners Court of Bexar County, Texas, shall be authorized to appoint a Board of Directors for said District, consisting of five (5) persons, each of whom shall be a resident qualified elector owning taxable property within the area comprising said District. The members of said Board of Directors, when appointed, shall qualify by taking the oath of office and executing the bond hereinafter prescribed, and shall organize by electing one of their number as President, one as Vice-President, and one as Secretary and Treasurer. Each of such Directors shall take and subscribe to an oath of office, similar to the oath required of County Commissioners and shall execute a bond in the sum of Five Thousand Dollars (\$5,000), payable to the District, conditioned substantially as bonds prescribed for County Commissioners. The sufficiency of such bonds shall be determined by the Commissioners Court, which bonds after approval by said Court shall be recorded in the official bond records of the County and shall thereafter be deposited with the depository selected and approved for the deposit of funds of the District. The terms of such Directors shall expire on the first Tuesday of April, 1946, and upon the election and qualification of their successors. The Board of Directors shall fill all vacancies on the Board by appointment and such appointees shall hold office until the first Tuesday of April, 1946, and upon the election and qualification of their successors.

"Sec. 8. (a) The successors to such first Board of Directors shall be elected by a vote of the electors of the District at an election to be held on the first Tuesday in April, 1946, and on the first Tuesday in April of each even numbered year thereafter. The five (5) persons receiving the greatest number of votes shall be declared elected. Each Director shall hold office until his successor shall have been elected and shall have qualified;

"(b) such elections shall be called, conducted and canvassed in the manner provided by Chapter 25, General Laws of the Thirty-ninth Legislature, Regular Session, 1925, and any amendments thereto;

"(c) the Board of Directors shall fill all vacancies on the Board by appointment and such appointees shall hold office for the unexpired term for which they were appointed;

"(d) any three members of the Board shall constitute a quorum for the adoption of passage of any resolution or order or the transaction of any business of the District;

"(e) directors thus elected shall have the same qualifications and shall otherwise qualify for said office as provided herein for the first Board of Directors and shall organize in like manner.

"Sec. 9. The Board of Directors from time to time shall be authorized to make or cause to be made surveys and engineering investigations for the information of the District to facilitate the accomplishment of the purposes for which the District is created, as expressed in the provisions of this Act; and may employ engineers, attorneys and all other technical and non-technical employees or assistants and fix and provide the amount and manner of their compensation, and may provide for payment of expenditures deemed essential to the proper maintenance and administration of the District. The members of the Board of Directors shall receive a per diem of not more than Ten Dollars (\$10) per day, for the time actually expended on business of the District, together with traveling and other necessary expenses, provided that such per diem fee shall not be paid to a Director for more than one hundred (100) days in any one year.

"Sec. 10. Taking into consideration the fact that the District should be incurring some obligations and making some expenditures before funds can be available to pay such obligations and expenditures, for the purpose of providing funds needed to procure necessary engineering surveys, the collection and compilation of data relating to general conditions influencing and determining the character and extent of the improvements, works and facilities essential to the accomplishment of any one or more of the several purposes of the District it is hereby provided that any political subdivision, city or town, situated within the District or any civic organization or Planning Board or Committee may expend funds or use its services for said engineering surveys and data. Any city or town or political subdivision situated within the District may appropriate money from its general funds or such other funds as may be legally available for such purpose. The District, however, shall have full power to make binding commitments to any creditor in reference to any such expenditures payable out of any revenues currently anticipated, other than taxes, and it shall be competent for the District to contract with any such political subdivision, city or town to repay any money advanced as a loan to the District.

"Sec. 11. The District may upon a favorable majority vote of the qualified property taxpaying electors voting at an elec-

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tion held for the purpose levy, assess and collect a tax to provide funds necessary to construct or acquire, maintain and operate improvements, works, plants and facilities deemed essential or beneficial to the District and also when so authorized at an election may levy, assess and collect a tax to provide funds adequate to defray the cost of the maintenance and operation and for administration of the District. Elections for the voting of such tax shall be ordered by the Board of Directors and shall be held and conducted in the manner provided by Chapter 25, General Laws of the Thirty-ninth Legislature, Regular Session, 1925, as amended, and the laws relating to general elections not inconsistent with the provisions of said Chapter 25, General Laws of the Thirty-ninth Legislature, Regular Session, 1925, as amended, and such taxes shall constitute a lien on the property against which such taxes are levied and assessed and limitations shall not bar the collection or enforcement thereof.

"Sec. 12. The District funds shall be deposited in a depository duly designated and secured in the manner provided by general law for the depositing and securing of County funds.

"Sec. 13. In furtherance of the purposes for which it is created and to provide funds for the construction or purchase, improvement, extension, repair, replacement or betterment of waterworks systems, storm sewers, sanitary sewer systems, sewage disposal plants or any other improvements, works, plants or facilities deemed necessary to accomplish any part of its plans and purposes the District shall have the power to borrow money and to evidence such loan by the authorization, issuance and sale of its negotiable bonds, provided that it shall not be authorized, to issue bonds or incur any form of continuing obligations or indebtedness for said purposes which would be payable from the proceeds of taxes levied against lands or properties within the District, unless the proposition for the incurring of such indebtedness shall have been submitted to the qualified property taxpaying voters of the District and approved by a majority of such electors voting thereon. The Board of Directors is authorized to call an election for the issuance of any such bonds and the levy of a tax in payment thereof and such proposition shall be submitted in the manner provided by Chapter 1, Title 22 of the Revised Civil Statutes of Texas, 1925, relating to County and City bond elections, to the qualified property taxpaying resident voters of the District who have duly rendered property for taxation. If at such election a majority of the legal votes cast are favorable to the issuance of the bonds they may be issued to mature serially or otherwise, as may be determined by the Board, not more than forty (40) years from their date, with or without option of prior redemption, and if an option of redemption prior to maturity

is reserved it shall be plainly so stated in the resolution authorizing such bonds and in the face of each bond, together with the prices at which and the terms under which the bonds may be so redeemed; provided the price so fixed for prior redemption shall never exceed one hundred and five per cent (105%) of the principal amount of such bonds, plus the interest accrued to date of redemption, and such bonds shall bear interest at not exceeding five per cent (5%) per annum. All bonds issued under the provisions of this Act shall be executed in the name of the District, shall be signed by the President and Secretary of the Board of Directors and shall have the official seal of the District impressed thereon. The tax authorized to be levied in payment of the bonds shall be levied upon all taxable property situated in said District in an amount and at a rate sufficient to pay the interest as it accrues and create a sinking fund to retire said bonds as such bonds mature, and such tax shall be assessed and collected annually.

"Sec. 14. The District is hereby authorized to issue its negotiable bonds, secured only by pledge of net revenues to be derived from the operation of any of its works, plants or facilities, and in such amounts as may be authorized by the Directors, to provide funds for the construction or purchase, improvement, extension, repair, replacement or betterment of waterworks systems, storm sewers, sanitary sewer systems, sewage disposal plants or any other improvements, works, plants or facilities deemed by the Board of Directors as essential or convenient for the accomplishment of its purposes. The term 'net revenue' as used in this Act shall be construed to mean the revenues of the District from whatever source derived, except taxes, remaining after the payment of all costs of collection of such revenues, all costs of operation and maintenance, depreciation and necessary replacements of such works, plants and facilities, owned or acquired or controlled by the District. All such bonds shall be authorized by resolution of the Board of Directors, concurred in by a majority of the members of the Board without the necessity of an election, and shall bear interest at not exceeding five per cent (5%) per annum, mature serially or otherwise not more than forty (40) years from their date, be payable at such place or places as such resolution shall provide, be signed by the President and Secretary of the Board and have the seal of the District affixed thereto. Such bonds are sometimes referred to in this Act as 'Revenue Bonds'. In the discretion of the Board of Directors it may defer the issuance of Revenue Bonds on any occasion until the proposition for the issuance of such bonds may be submitted at an election, which shall be called and held in the manner provided in Section 13 hereof for the voting of tax bonds, and unless such election shall have resulted favorably to the issuance of

the Revenue Bonds. The resolution authorizing any such bonds may contain provisions which shall be a part of the contract between the District and the bondholders. Such resolution may include among other provisions any of the following:

"(a) Reserving the right to redeem such bonds prior to maturity at such time or times, in such amounts and at such prices as may be thus provided, but in no event shall the price so fixed for prior redemption ever exceed one hundred and five per cent (105%) of the principal amount of such bonds plus accrued interest;

"(b) providing for the setting aside of sinking funds or reserve funds and the regulation for disposition thereof;

"(c) pledging to secure the payment thereof all or any part of the net revenues thereafter received by the District in respect of the property, real, personal, or mixed, acquired or to be acquired or constructed with such bonds or the proceeds thereof, or all of any part of the net revenues thereafter received by the District from whatsoever source, except taxes;

"(d) prescribing the purposes to which the proceeds of such bonds or any bonds thereafter to be issued may be applied;

"(e) covenant to fix and collect fees, rates and charges for use of works, plants and facilities sufficient to produce net revenues adequate to pay such bonds, plus interest, and prescribing the use and disposition of all District revenues except taxes;

"(f) prescribing limitations upon the issuance of additional revenue bonds and upon all agreements which may be made between the District and the purchasers and subsequent holders of bonds to be issued subsequently;

"(g) providing for the construction, extension, improvement, operation, maintenance, depreciation, replacement and betterment of the properties of the District and carrying insurance of any and all kinds upon all or part of its properties;

"(h) fixing the procedure, by which any contract with the bondholders may be amended and for the execution and delivery of an indenture or agreement for the benefit of the holders of such bonds, which indenture or agreement may define 'events of default' and prescribe the remedies therefor and contain such other items, conditions and covenants as may be agreed upon that are not inconsistent with the provisions of this Act or the Constitution of the State of Texas.

"Sec. 15. All bonds issued by authority of this Act may be (1) sold for cash at public or private sale, at such price or prices as the Board of Directors shall determine at not less than par and accrued interest, (2) may be issued on such terms as the Board of Directors shall determine in exchange for property of any kind which the Board shall deem necessary or convenient for any corporate purposes, or (3) without

the necessity of an election may be issued to refund any bonds issued at any time under authority of this Act; provided that before any bonds are sold or otherwise delivered they shall be submitted to and approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of the State of Texas in the manner and with the effect provided in Article 709 to 715, inclusive, Revised Civil Statutes of Texas, 1925.

"Sec. 16. Whenever any city, town, or political subdivision situated within said District shall have issued its bonds and shall have applied the proceeds thereof to the purchase and construction or repair and improvement of any works, plants or facilities, and it shall be determined by the Board of Directors that it will be beneficial and to the best interests of the District to acquire such works, plants, or facilities in whole or in part and operate same in furtherance of its authorized purposes the District in addition to any other consideration which might be paid in the acquisition of such properties shall have the authority to issue its bonds, hereinafter called 'Compensation Bonds', in an amount equal to the amount of bonds outstanding, the proceeds of which were spent by any such city, town or political subdivision, in the construction, purchase, repair, or improvement of the works, plants or facilities or any part thereof thus to be acquired by the District. No such bonds shall be so issued until there shall have been submitted to the resident qualified property taxpaying electors of the District the question as to whether such bonds shall be issued and a tax levied upon the property in the District subject to taxation for the purpose of paying the interest on said bonds and to provide a sinking fund for their redemption at maturity. Such election shall be called and held as provided for the voting of tax bonds authorized in this Act.

"Sec. 17. If the proposition to issue such Compensation Bonds and to levy a tax in payment thereof shall have received a favorable vote and the bonds shall have been approved and registered as provided in Section 15 of this Act, the Board of Directors at the earliest practicable date thereafter shall deposit with the proper officials of such city, town or political subdivision for the credit of the interest and sinking fund an amount of District bonds equal to the amount of bonds then outstanding against such city, town or political subdivision thus to be compensated as provided in the next proceeding [preceding] section. The resolution of the Board of Directors authorizing the deposit of such Compensation Bonds for the credit of the interest and sinking fund of such city, town or political subdivision shall be submitted to the Attorney General of Texas for approval concurrently with the submission to him of the proceedings authorizing the issuance of such bonds before such Compensation Bonds shall be so deposited, provided that the resolution au-

thorizing the deposit of such bonds shall provide that the bonds are deposited as a guaranty for the payment of the outstanding bonds of such city, town or political subdivision and that such bonds shall not be drawn down except by proper resolution of the Board of Directors reciting the reasons therefor and providing for satisfaction of the guaranty in an amount equal to the bonds withdrawn as in this section provided.

"The governing body of such city, town or political subdivision shall not be required to collect taxes for the payment of the bonds thus compensated, so long as the District shall pay the interest and the principal as it matures on the Compensation Bonds deposited to said interest and sinking fund. There shall be surrendered to the District concurrently with such payment the respective maturing interest coupons and bonds in an amount equivalent to such payment and thereupon the coupons and bonds so surrendered shall be cancelled by the District. The District may reserve the right to take up, uncanceled, any of said Compensation Bonds by surrendering in lieu thereof for cancellation a like principal amount of the bonds of such city, town or political subdivision for which the Compensation Bonds were issued, provided the bonds surrendered shall have the same maturities as the Compensation Bonds thus taken up. Such reserved right shall be stated in or stamped on such bonds. The funds thus received and credited to the interest and sinking fund of the bonds so compensated shall be used solely for the payment of interest and principal maturing on such outstanding bonds.

"Sec. 18. Such Compensation Bonds shall be issued in similar denominations, bear the same rate of interest payable at same time, having the same principal maturity dates and similar options of prior payment, if any, as the outstanding bonds of the city, town or political subdivision thus to be compensated; provided said District bonds shall be dated on a date after the election at which they were authorized.

"Sec. 19. The District without the necessity of an election is hereby authorized to issue its refunding bonds in exchange for or in lieu of any of its bonds (including Compensation Bonds) theretofore legally issued and outstanding. Such refunding bonds may mature serially or otherwise, with or without option or prior payment, not more than forty (40) years from their date, bearing interest at the same or a lower rate than that borne by the bonds then to be refunded, provided that such refunding bonds may bear an interest coupon rate greater than that borne by the bonds to be refunded if it is shown mathematically that a saving in total interest cost will result therefrom. All such refunding bonds shall be submitted to the Attorney General of Texas for approval and the Comptroller of Public Accounts for registration in the manner and with the

same effect as provided by general law for the authorization, issuance and delivery of refunding bonds by counties.

"Sec. 20. The Assessor and Collector of taxes of Bexar County shall, ex officio, be the Assessor and Collector of taxes for the District. The blanks used by the Assessor and Collector to accept rendition of property for taxation by the County shall be printed so as to show that the rendition of property situated in the District is also made for the benefit of the District. The property which is situated in the District shall be clearly indicated on the approved tax rolls in the office of the Assessor and Collector. The value of property situated in the District as equalized by the Board of Equalization of Bexar County, finally approved by the Commissioners Court of Bexar County and as extended on the approved tax rolls of Bexar County shall constitute the assessed values of such property for purposes of District taxation. Within five (5) days after the approval of the report of the Board of Equalization by the Commissioners Court of the County, the Assessor and Collector of taxes shall certify to the District the total assessed valuation of property situated in the District according to such approved rolls.

"Sec. 21. Within ten (10) days after the amount of assessed valuations of property shall have been certified to the District by the Assessor and Collector, it shall be the duty of the Board of Directors to fix the tax rate of the District for the current year and to certify such rate to the Assessor and Collector immediately after it shall have been fixed. The Assessor and Collector shall extend on the tax rolls as to each item of property shown on the tax rolls to be situated in the District the amount of tax levied by and for the District. At the time the Assessor and Collector makes collection of taxes for State and County purposes he shall at the same time collect the taxes levied for the District, and shall not accept payment of taxes levied against any property for State and County purposes without at the same time collecting the tax so levied for the District. For his services thus rendered to the District in assessing and collecting such taxes, the Assessor and Collector shall be entitled to deduct from all taxes thus collected on the current year's tax rolls a sum equivalent to one per cent (1%) thereof, 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. 22. The provisions of Chapters 1 to 11, inclusive, Title 122 of the Revised Civil Statutes of Texas, 1925, as amended, relating to the assessing and collecting of taxes by the State and Counties of Texas, except where in conflict with provisions of

this Act, shall apply to the assessing and collecting of such taxes.

"Sec. 23. The District shall have the right to fix and collect charges, fees or tolls for the use of its sanitary systems and facilities or for any services rendered by said systems or facilities and to contract with any person, private corporation, municipal corporation, political subdivision, or the Board of Trustees thereof, for the billing and collecting of such charges, fees or tolls simultaneously with the collection of charges for water service, and the District shall have the right to impose penalties for failure to pay when due such charges, fees or tolls. The rights and powers herein conferred shall not be construed to limit the further right and power of the District to fix and collect charges, fees and tolls for any service which may be rendered by any of the works, plants and facilities owned or controlled, and operated by the District in performance of any of the purposes or functions for which it is created, nor shall it be so construed as to deprive the District of the right to impose penalties for failure to pay such charges, fees or tolls as may be thus fixed, when due.

"Sec. 24. In connection with the power of the District to promulgate rules and regulations for the operation, maintenance, and functions of the District and to enforce proper observance thereof all home rule cities and all cities and towns operating under general law located within the District are authorized to pass ordinances in harmony with all such rules and regulations as may be adopted by the District or in the alternative the District is authorized to enforce its own rules and regulations within such cities and towns. It shall be the duty of such cities and towns to enforce observance of all such ordinances. The duties imposed and the powers conferred on such cities and towns with reference to such rules and regulations shall likewise be applicable to Bexar County.

"Sec. 25. All cities and towns, including home rule cities and political subdivisions situated in the District, shall have the power to grant to the District the right to operate and maintain such works, plants or facilities as may be located in such cities and towns and which may be deemed by the District to be necessary or convenient to accomplish the purposes of the District. The terms and conditions of such grant may be such as may be agreed upon between any such cities, towns or political subdivisions and the District taking into consideration the purposes and objects for which the District is created.

"Sec. 26. The negotiable tax bonds authorized by this Act shall be eligible for purchase for any public funds in accordance with the laws governing investment of such public funds and shall be eligible to secure public funds on deposit in duly qualified depositories of the State and any municipal corporation, county or other political subdivision thereof.

"Sec. 27. Any obligation issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county or other political subdivision or taxing District of the State.

"Sec. 28. Nothing contained in this Act shall be construed as affecting the San Antonio River Canal and Conservancy District as created by Acts 1937, Forty-fifth Legislature, House Bill No. 726, as amended, nor as restricting, modifying or affecting in any manner or to any extent the authority, powers and functions of said San Antonio River Canal and Conservancy District nor as amending any law or statute relating thereto.

"Sec. 29. Nothing contained in this Act shall be construed to diminish, or in any other manner affect, the power of the City of San Antonio to operate its municipal water supply system, nor the use of the subterranean waters of the City of San Antonio. Nor shall anything contained in this Act be construed to affect, diminish or impair any of the other powers now vested in the City of San Antonio by its Charter and the Statutes of the State of Texas, nor as amending or repealing any law relating thereto.

"Sec. 30. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

"Sec. 31. The fact that the facilities now provided in the area comprised by this District are inadequate and insufficient to properly control and preserve the purity and utility of the surface and underground waters therein and the fact that the accumulation of sewage, wastes, refuse and other residuum imperils the health and safety of the inhabitants of such a large densely populated area, including several incorporated cities, unincorporated communities, army camps and army installations create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days be suspended, and said Rule is hereby suspended, and that this Act become effective immediately from and after its passage and it is so enacted."

Dallas County Flood Control District
Acts 1945, 49th Leg., p. 619, ch. 355, effective 90 days after June 5, 1945, date of adjournment, reads as follows:

"Section 1. There is hereby created and established within the State of Texas, in addition to the districts into which the State has heretofore been divided, in the form and manner hereinafter provided, a conservation and reclamation district to be known as Dallas County Flood Control District hereinafter called the District, and

consisting of that part of the State of Texas which is known as and included within the boundaries of the City and County of Dallas Levee Improvement District and within the boundaries of Dallas County Levee Improvement District No. 5, the territories of which are described by metes and bounds in the preamble to this Act and such description of said territory is here adopted by reference and the same shall be considered as much a part of this Section as if herein written in full detail. Such 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, the creation of this District being essential to the accomplishments and purposes of Section 59, Article 16 of the Constitution of the State of Texas, as amended, including the control, storing, preservation and distribution of its storm and floodwaters and the reclamation and drainage of its overflowed lands. Nothing in this Act or in any other Act or law contained, however, shall authorize the District to levy or collect taxes or assessments or to issue any bonds or in any way to pledge the credit of the State, and the District does not and shall not have power or authority to levy or collect taxes or assessments or to issue bonds or to create or incur, directly or indirectly, any indebtedness on or against, or collectible out of any land or property in the District, and any debts, liabilities and obligations of the District shall never be or constitute a lien, directly or indirectly, on or against any land or property in the District, and any person ever having or asserting a claim, debt or demand of any kind against the District, contractual or otherwise, shall not ever have or be entitled to subject any land or property in the District in any manner whatsoever to the payment of said claim, debt or demand, provided further that nothing in this Act contained shall be construed as affecting the power of any other governmental agency to levy and collect taxes and assessments in said District.

"Sec. 2. In accordance with the limitations and provisions of this Act the District shall have, and is hereby authorized to exercise, the following powers, rights, privileges and functions:

"(a) To prevent or aid in the prevention of damage to persons or property from the waters of the Trinity River and its tributaries;

"(b) To acquire by lease, purchase, gift or contract, but not by condemnation, property of any kind, real, personal or mixed, within the boundaries of the District necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this Act, and to maintain, operate, use and repair any and all such property so acquired and owned by the District for such purposes;

"(c) To improve, maintain, operate and

repair, or cause to be improved, maintained, operated and repaired, levees, pumping stations and drainage ditches located within said District, now or hereafter owned or operated by City and County of Dallas Levee Improvement District and Dallas County Levee Improvement District No. 5;

"(d) To make by-laws for the management and regulation of its affairs and to adopt and use a corporate seal;

"(e) To sue and be sued in its corporate name;

"(f) To appoint officers, agents and employees, to prescribe their duties and to fix their compensation;

"(g) To cooperate with and contract with the United States of America or with any of its agencies now existing or which may exist hereafter, to cooperate with or to contract with the City of Dallas, the County of Dallas, City and County of Dallas Levee Improvement District, Dallas County Levee Improvement District No. 5, or either of them, to carry out any of the powers or to further any of the provisions set forth in this Act and to receive and use moneys for such purposes;

"(h) To do any and all other acts or things necessary or convenient to the exercise of powers, rights, privileges, or functions conferred upon it by this Act.

"Sec. 3. No plan of reclamation of City and County of Dallas Levee Improvement District or of Dallas County Levee Improvement District No. 5, heretofore or hereafter approved by the State Reclamation Engineer, shall be modified or changed in any manner, except with the written consent of the Board of Supervisors of each of said Levee Improvement Districts first obtained, and upon petition to the State Reclamation Engineer, signed by the owners of a majority of the acreage of lands in City and County of Dallas Levee Improvement District, and signed by the owners of a majority of the acreage of lands in Dallas County Levee Improvement District No. 5.

"Sec. 4. The powers, rights, privileges and functions of the District shall be vested in and exercised by a board of three (3) directors (hereinafter called the Board), all of whom shall be residents of and freehold property tax payers in the County of Dallas, Texas. Each of the directors shall be appointed by the Governor by and with the consent of the Senate and shall hold office for a term of six (6) years; of the Board first appointed, however, one (1) of the members shall serve for a term of two (2) years, one (1) of the members for a term of four (4) years and one (1) of the members for a term of six (6) years, and upon the expiration of their respective terms their successors shall be appointed for a term of six (6) years, provided, however, that appointments to fill any vacancies shall be for the unexpired term. The directors shall qualify by taking the official oath of

office prescribed by law. Each director shall receive a fee of Five Dollars (\$5) per day for each day spent in attending meetings of the Board.

"The Board shall select a Secretary-Treasurer who shall keep true and complete records of all proceedings of the Board. Until the appointment of a Secretary-Treasurer or in the event of his absence or inability to act, a Secretary pro tem shall be selected by the Board. The Board shall also select a General Manager who shall be the chief executive of the District. All such officers shall have such powers and duties, shall hold office for such terms and be subject to removal in such manner as may be provided for in the by-laws. The Board shall fix the compensation of such officers. The Board may appoint other officers, agents and employees, fix their compensation and term of office and determine by which method they may be removed and delegate to them such duties as the Board may deem proper.

"The domicile of the District shall be in the County of Dallas, Texas, where the District shall maintain its principal office.

"Sec. 5. The Board of Directors of the District shall select a depository or depositories under the provisions as are now or may hereinafter be provided by law for selection of depositories of counties of this State and 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. The moneys of the District shall be disbursed in the manner now provided by law for the disbursement of funds of levee improvement districts in the County of Dallas, Texas, except that such disbursements shall only be made upon authorization of a majority of the Board of Directors.

"Sec. 6. That because of the recurring floods of the Trinity River in Dallas County and the constant threat of such recurring floods to life and property and to the commerce on and use of the viaducts, underpasses and highways located in said District and to the Dallas County Courthouse, Dallas County Criminal Courts and Jail, Dallas County Hall of Records and the Railway Terminal Annex of the United States Post Office, which constitute a public calamity to the State of Texas and to the people and property within said county, there is hereby donated and granted by the State of Texas to Dallas County Flood Control District all the State ad valorem taxes collected for general revenue purposes upon the property located within said District and from persons therein, not exceeding, however, the sum of Twenty-five Thousand Dollars (\$25,000) per annum, for a period of twenty (20) years commencing September 1, 1945, which taxes when collected shall be used by Dallas County Flood Control District

for the purpose of controlling the waters of the Trinity River within said District and preventing the continued public calamity caused by great floods and to aid in the prevention of damage to persons or property from the waters of the Trinity River and its tributaries and of improving, maintaining, reconstructing and repairing or causing to be improved, maintained, reconstructed and repaired the levees, pump stations and drainage ditches within the District and being owned by either of said levee districts, and of doing any or all other acts or things necessary or convenient to the exercising and accomplishing of such purposes and to carry out the powers given herein to said District.

"At the end of each month the assessor and collector of taxes of Dallas County shall make an itemized report to the Comptroller of Public Accounts of the State of Texas, on forms to be furnished by said Comptroller, showing the amount of all ad valorem taxes collected by him for general revenue purposes upon property and from persons within the District; and he shall accompany the same with an itemized statement showing full disposal of all such taxes collected. The said assessor and collector of taxes shall forward his report to the Comptroller and shall make a like report to the County Auditor, and he shall pay over to the District upon the approval of the County Auditor of his monthly report, all moneys collected by him as said ad valorem taxes during said month, less such amounts as are allowed by law for assessing and collecting same, said moneys so paid to the said District, not to exceed, however, the sum of Twenty-five Thousand Dollars (\$25,000) per annum.

"The Board of Directors of the District may utilize the tax funds donated and granted by the State of Texas for the purposes set forth in this Section.

"Sec. 7. All existing State laws applicable to contracts and to the receipt and disbursement of and accounting for public funds in Dallas County are hereby made applicable to the contracts and to the receipt and disbursement of, and accounting for, the State tax funds hereinabove donated and granted to Dallas County Flood Control District. The provisions of this Section shall be cumulative of any other laws upon the subject matter of this Section.

"Sec. 8. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portion of this Act shall not be affected thereby, it being the intention of the Legislature in adopting, and in the Governor in approving this Act that no portion thereof or provision or resolution contained therein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation.

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

"Sec. 9. All laws and parts of laws in conflict with this Act are hereby expressly repealed, except and provided, however, nothing in this Act contained in any manner impairs, changes, alters, modifies or affects the existence of City and County of Dallas Levee Improvement District or of Dallas County Levee Improvement District No. 5, as now constituted, or any laws applicable to and governing said levee improvement districts, or any rights, powers and privileges now possessed by either of said levee improvement districts or hereafter conferred upon them by law."

**Jackson County, Fayette County and Colorado County Flood Control Districts
—Donation of Taxes**

Acts 1945, 49th Leg., p. 654, ch. 364, effective 90 days after June 5, 1945, date of adjournment, read as follows:

"Section 1. The Legislature finds and declares that the recent and recurring floods in the Lavaca and Navidad Rivers and other streams and tributaries in Jackson County and the recent floods in the Colorado River and other streams and tributaries in Fayette County and the recent floods in the Colorado River and other streams and tributaries in Colorado County, with the consequent loss of lives and of property to the extent of many millions of dollars, and the continued threat to adjacent land-owners and business of said counties, constitutes a public calamity to the State of Texas and to the people and property within the said counties.

"(a) For a period of ten (10) years, commencing with September 1, following the adoption of this Act there is hereby donated and granted by the State of Texas to the Jackson County Flood Control District of Jackson County, Texas, one-half ($\frac{1}{2}$) of all the state ad valorem taxes collected in Jackson County for general revenue purposes upon the property therein and from persons, which taxes when collected shall be used by the said Jackson County Flood Control District for the purposes of preventing the continued public calamity caused by great floods, and to construct improvements to control flood waters in the said county for the protection of life, property, soil, forests, and public highways, lying within the said county, and to carry out the powers given herein.

"(b) For a period of ten (10) years, commencing with September 1, following the adoption of this Act there is hereby donated and granted by the State of Texas to the Fayette County Flood Control District one-half ($\frac{1}{2}$) of the state ad valorem taxes collected for general revenue purposes upon the property and from persons in Fayette County, which taxes when collected shall be used by the said county for the purposes of preventing the continued public calamity caused by great floods, and to construct improvements to

control flood waters in the said county for the protection of life, property, soil, forests, and public highways lying within the said county.

"(c) For a period of ten (10) years, commencing with September 1, following the adoption of this Act there is hereby donated and granted by the State of Texas to the Colorado County Flood Control District one-half ($\frac{1}{2}$) of the state ad valorem taxes collected for general revenue purposes upon the property and from persons in Colorado County, which taxes when collected shall be used by the said county for the purposes of preventing the continued public calamity, caused by great floods, and to construct improvements to control flood waters in the said county for the protection of life, property, soil, forests, and public highways lying within the said county.

"Sec. 2. At the end of each month the Assessor and Collector of Taxes of each county shall make an itemized report under oath to the Comptroller of Public Accounts of the State of Texas, on forms to be furnished by said Comptroller, showing the amount of state ad valorem collected by him for general revenue purposes upon property and from persons within each of said counties, and he shall accompany the same with an itemized statement showing full disposal of all such taxes reported to the Comptroller, and the Assessor and Collector of each county shall pay over to the County Treasurer of his county one-half ($\frac{1}{2}$) of all moneys collected by him as state ad valorem taxes during said month, less such amounts as are allowed by law for assessing and collecting of same.

"The Commissioners Court of each county, in their discretion, may utilize the tax funds donated and granted by the State of Texas for the construction of flood control improvements and other improvements; the maintenance and operation thereof; or may deposit the same in a sinking fund to pay interest on and to redeem the bonds of the respective flood control districts of the respective counties.

"Sec. 3. Issuance of Bonds: The counties herein, acting through their respective Commissioners Courts, shall have authority, and it is hereby authorized, to issue their negotiable bonds secured by a pledge of the tax moneys diverted and granted by the State of Texas, as hereinabove provided, and the proceeds of the sale of such bonds may be used for purchasing lands, casements, rights-of-way, structures, and for the construction of improvements, including dams, reservoirs, and all other works suitable for use in connection with the flood control programs and projects in said counties and the maintenance and operation thereof, and doing all things necessary to the execution of the purposes for which the grants and donations are made; provided, however, that the aggregate amount of bonds to be issued shall not exceed such sum that the diversion of one-

half ($\frac{1}{2}$) of the state ad valorem taxes for a period of ten (10) years will service so as to pay interest and to create a sinking fund sufficient to pay said bonds at maturity. The maximum amount of bonds to be issued and the total interest to be paid during the life of the bonds shall not exceed ten (10) times one-half ($\frac{1}{2}$) the sum of the current and delinquent state ad valorem taxes collected for general revenue purposes during the calendar year 1942 in the counties herein.

"In the event the Commissioners Court of said counties shall determine by majority vote on a Resolution entered of record, giving the reasons therefor, and showing that a necessity exists, for utilizing the tax funds donated and granted by the State of Texas for the issuance of bonds in order to facilitate the construction of improvements and make funds immediately available, said bonds may be issued in the form and manner hereinafter prescribed at any time after the effective date of this Act.

"The bonds so authorized and issued in accordance with the provisions of this Act need not be issued at one time. The amount of money necessary to provide a sinking fund to mature said bonds and to pay the interest thereon shall be set aside annually from the first funds received from the Assessors and Collectors of Taxes and said funds may not be diverted to any other purpose. Officers of the counties and the depositories thereof are forbidden to authorize the payment of any amount from said state taxes so donated and granted until there has first been set aside therefrom an amount sufficient to cover all servicing charges for the bonds for the year. Thereupon and after the auditors have filed certificates showing the deposits to the interest and sinking fund of sufficient amounts to cover such servicing charges for the year, taxes donated and granted to the Jackson County Flood Control District and to Fayette County Flood Control District and Colorado County Flood Control District by the State of Texas under this Act collected during the remainder of the year may be utilized for the purposes consistent with this Act. Should the necessity arise, the Commissioners Court may supplement the State taxes herein donated and granted from its general funds.

"Sec. 4. Form of Bonds: All bonds issued under the provisions of this Act shall be issued as follows; under the names of:

"(a) Jackson County Flood Control District;

"(b) Fayette County Flood Control District;

"(c) Colorado County Flood Control District;

and shall be signed by the County Judge, attested by the County Clerk of the respective counties, and the seal of the Commissioners Court of the respective counties

shall be affixed to each of them. Said bonds shall be issued in denominations of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars each, as determined in the order authorizing their issuance, and shall bear interest at a rate not to exceed five (5%) per centum per annum, payable semi-annually and evidenced by attached coupons which shall bear the facsimile signatures of the County Judge and the County Clerk of the respective counties. The bonds shall mature serially in not to exceed ten (10) years, provided that no bonds shall be authorized to mature later than the expiration period of this tax donation and grant fixed by this Act.

"Payment of principal and interest may be made at such places as may be determined by the Commissioners Court of the respective counties in the order authorizing the issuance of such bonds. Provided that, if at the expirations of the periods of the tax donations and grants herein authorized, any bonds remain out-standing and unpaid by reason of the non-collection of taxes assessed during the periods of donations and grants, an amount of taxes sufficient to retire said bonds and pay the interest thereon shall thereafter be collected from said delinquent taxes and applied to the payments of such bonds and interest.

"Sec. 5. Bond Record: Before any bonds herein authorized shall be sold by the Jackson County Flood Control District and the Fayette County Flood Control District and the Colorado County Flood Control District, a certified copy of the proceedings had for the issuance thereof including certificates showing the bonded indebtedness of each Flood Control District, certificates showing the compliance with the requirements of this Act, and certificates or resolutions reflecting any other information which the Attorney General of the State of Texas may require, shall be submitted to the Attorney General; and if he shall find that such bonds have been issued in accordance with law, and if he shall approve such bonds, he shall execute a certificate to that effect, which shall be filed in the office of the Comptroller of the State of Texas and be recorded in a record kept for that purpose.

"No bonds shall be sold until the State Board of Education has been given its preferential right of purchase as provided by law, and 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.

"The County Treasurers of the respective counties shall keep a record in a well-bound book of all bonds issued and shall register therein the amount of bonds issued, the numbers, the denominations, rate of interest, date due, date of issue, the

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

paying agent, the amount received, and the purchaser. The said book shall be at all times open to the inspection of all proper parties, either taxpayers or bondholders or officials of the state or counties herein.

"When such bonds have been registered with the County Treasurers the Commissioners Court of said counties shall set a date for the sale of such bonds or such amount thereof as may be needed to procure funds to construct the improvements then contemplated and pay the expenses incident thereto, and after advertising said bonds for sale by notice published once a week for two (2) consecutive weeks, shall sell such bonds upon the best terms and for the best price obtainable, but none of said bonds shall be sold for less than the face value thereof and accrued interest thereon to date of delivery and the purchase price of such bonds shall be paid to the County Treasurers and shall be then placed to the credit of the Jackson County Flood Control District and the Fayette County Flood Control District and the Colorado County Flood Control District; provided the accrued interest and premium received shall be credited to the interest and sinking fund for such issue of bonds. No commission shall be paid for the sale of any bonds.

"All bonds approved by the Attorney General, registered by the Comptroller, and issued and sold in accordance with the proceedings so approved, shall be valid and binding obligations of the respective Flood Control Districts, as the case may be, and payable from the state ad valorem taxes authorized to be donated and granted as herein provided, and shall be incontestable for any cause from and after the time of such registration, except for forgery or fraud.

"The Commissioners Courts of the respective counties shall have the right to employ the County Auditors or other qualified persons to prepare all orders, notices, certificates, and transcripts of the proceedings of any issue of bonds in order to obtain the opinion of the Attorney General and a commercial legal opinion to insure the full market price for such bonds when sold, and to pay all necessary expenses.

"Sec. 6. State Laws Applicable: All existing state laws applicable to contracts and to the receipt and disbursement of and accounting for public funds in each said county are hereby made applicable to the contracts and to the receipt and disbursement of, and accounting for, the state tax funds hereinabove donated and granted to the said Flood Control Districts. The provisions of this Act shall be cumulative of any other laws upon the subject matter.

"Sec. 7. Validity: If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portion of this Act shall not be affected thereby, it being the intent of the Legislature in adopting, and of the Gov-

ernor in approving this Act, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation.

"Sec. 8. Repeal: All laws and parts of laws in conflict herewith are hereby expressly repealed."

Nueces River Conservation and Reclamation District

"Sec. 6. The powers, rights, privileges, and functions of the Nueces River Conservation and Reclamation District shall be exercised by a board of twenty-one (21) directors, each of whom shall be a resident of and freehold property taxpayer in the district as described in Section 3 of this Act, or in any county which in whole or in part composes a part of said district. All such directors shall be appointed by the Governor with the advice and consent of the Senate and shall hold office for a term of six (6) years or until their successors have been appointed and qualified. Provided that the board of directors appointed under the provisions of Section 6 of Chapter 427, Acts of the First Called Session of the Forty-fourth Legislature, as amended by Section 2 of Chapter 20, Acts of the Second Called Session of the Forty-fifth Legislature, as amended by Section 1 of Chapter 390, Acts of the Regular Session of the Forty-eighth Legislature, shall continue to serve until the expiration of their respective terms. All vacancies occurring shall be filled by appointment of the Governor by and with the advice and consent of the Senate, so that each such appointee, except the first seven (7) members appointed hereunder, shall hold office for a term of six (6) years or until their successors have been appointed and qualified; it being the intention of the Legislature that as the present terms expire, seven (7) members of the board shall be appointed each biennium, that is to say, seven (7) shall be appointed after the effective date of this Act, whose terms shall expire on February 1, 1951, seven (7) shall be appointed on February 1, 1947, and seven (7) shall be appointed on February 1, 1949. Said directors shall take and subscribe to the official oath of office, and the same shall be filed with the Secretary of State. Eleven (11) members shall constitute a quorum to transact business. No more than two (2) of said directors shall be appointed who reside in the same county at the time of their appointment. The board shall hold its meetings at its official and principal place of business as determined and established by said board, unless it directs otherwise for specific occasions, and it shall meet then when called by order of the President, Vice President or a majority of its members; provided however, that the board shall fix, by order entered in the minutes of its proceedings, a specified time for its regular meetings.

As amended Acts 1945, 49th Leg., p. 489, ch. 305, § 1.

Effective June 4, 1945.

"Sec. 22. Repealed Acts 1945, 49th Leg., p. 489, ch. 305, § 2.

Effective June 4, 1945.

Sabine-Neches Conservation District

"Sec. 4. The management and control of all the affairs of such district shall be vested in the Board of Directors, consisting of nine (9) members, all of whom shall be freehold property taxpayers and legal voters of the State of Texas. Such Board of Directors shall be appointed by the Governor of Texas as soon as practicable after the passage of this Act, and confirmed by the Senate; one-third of the members to be appointed for a term of two (2) years, one-third of the members thereof to be appointed for a term of four (4) years and the remaining members thereof to be appointed for a term of six (6) years, and upon the expiration of the respective terms of said directors, the successors of each and all of them shall be appointed thereafter for a term of six (6) years. The directors shall hold office after their appointment and qualification until their successors shall be appointed and qualified. Should any vacancy occur in the Board of Directors, the same shall be filled in like manner by the Governor of Texas for the unexpired term. The directors appointed shall, within fifteen (15) days after their

appointment, qualify by taking the official oath and filing a good and sufficient bond with the Secretary of State; the official bond of each director to be in the sum of One Thousand Dollars (\$1,000), shall be payable to the district, shall be conditioned upon the faithful performance of their duties as such directors, and shall be subject to approval by the Secretary of State." As amended Acts 1945, 49th Leg., p. 456, ch. 287, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

"Sec. 5. The directors of the district shall organize by electing one of their members President, one Vice-President, one Secretary-Treasurer, five (5) directors shall constitute a quorum at any meeting, and a concurrence of a majority of those present shall be sufficient in all matters pertaining to the business of the district, except the letting of construction contracts and the authorization of issuance of warrants paying therefor, which shall require the concurrence of five (5) directors. Warrants for the payment of money may be drawn and signed by the Secretary-Treasurer and President when such accounts have been contracted and ordered paid by the Board of Directors." As amended Acts 1945, 49th Leg., p. 456, ch. 287, § 2.

Effective 90 days after June 5, 1945, date of adjournment.

V. NAVIGATION

CHAPTER NINE—NAVIGATION DISTRICTS

2. SPECIAL POWERS

A. PORT FACILITIES

Art.

8235a. Districts having city over 100,000; governing body's powers and duties; general manager [New].

2. SPECIAL POWERS

A. PORT FACILITIES

Art. 8235a. Districts having city over 100,000; governing body's powers and duties; general manager

Section 1. The governing board (hereinafter called "Board") of all Navigation Districts in this state having a city containing 100,000 population or more according to the preceding Federal Census, may appoint a General Manager of such District, who shall hold his office for a term not exceeding two (2) years, prescribe his duties, and fix his compensation. Such General Manager shall, before entering into the discharge of his duties, execute a written contract and a bond, payable to the District, in the amount of not less than Ten Thousand Dollars (\$10,000.00), conditioned that he shall well and faithfully perform the duties required of him in such contract and bond, and containing such other conditions as the governing board may require. Such General Manager shall perform all duties which may be required of him in his contract of employment. He 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 governing board.

Board; quorum; secretary

Sec. 2. The Commissioners shall constitute a Board and any three (3) members shall constitute a quorum for the transaction of any business. The Chairman or, in his absence, a Chairman pro tem, shall preside and the General Manager or any member of the Board may be appointed as Secretary.

The Board shall require the Secretary to keep suitable records of all proceedings of each meeting of the Board. Such record shall be read and signed after each meeting by the Chairman or the member presiding and attested by the Secretary. Copies of all minutes shall be furnished immediately to the County Auditor. Said Commissioners shall have a seal on which shall be engraved the name of the District, and said seal shall be kept by the Secretary and used in authentication of all acts of the Board.

Contracts; purchases

Sec. 3. No contract may be made by the Board which encumbers future revenues of the District, unless the Commissioners Court shall have levied a special tax therefor, or unless the revenues of a particular facility or facilities are encumbered to discharge the obligation.

The Board shall be authorized to make, or to authorize the General Manager to make, routine purchases or contracts not to exceed the sum of One Hundred Dollars (\$100.00) upon requisitions signed by at least two (2) Commissioners, or the General Manager, which requisitions shall be executed at least in triplicate, one (1) copy to be delivered to the per-

son, firm or corporation from whom the purchase is made, one (1) copy to be delivered to the County Auditor, and one (1) copy to remain on file with the Board, before any purchase shall be made. Such purchases and requisitions shall be subject to ratification and approval at the next succeeding meeting of the Board.

In cases in which the materials, supplies, machinery, equipment, or other items sought to be purchased or the contract sought to be made shall exceed One Hundred Dollars (\$100.00) but not exceed One Thousand Dollars (\$1,000.00), it shall not be necessary to advertise for bids but sealed proposals shall be asked from at least three (3) persons, firms, or corporations, or from as many more as in the opinion of the Board may appear advisable, or as offer to bid based upon written specifications. The substance of the bids shall be tabulated by the Secretary in the minutes. Copies of all specifications shall be filed with the County Auditor at least forty-eight (48) hours in advance of the awarding of any contract.

In cases in which the materials, supplies, machinery, equipment or other items sought to be purchased or the contract sought to be made shall exceed One Thousand Dollars (\$1,000.00), written specifications shall be filed with the County Auditor and advertisement shall be published once a week for two (2) successive weeks or for such added time as the Board may require in a daily newspaper published within said District, the first publication to be fourteen (14) days prior to the date of the opening of the bids, in which advertisement shall be stated the items or things to be purchased or the contract sought to be made; the time and the place of the opening of the bids; and the place where specifications may be obtained. The specifications shall state in detail what is desired; shall require that bids be sealed; and shall require the attachment to said bid of a certified or cashier's check payable to the Navigation District, drawn on a bank which is a member of the Federal Reserve System, for five per cent (5%) of the total amount of the bid, conditioned that the successful bidder will enter into a contract and give bond as required by the specifications. All such contracts shall be awarded by the Board at a regularly scheduled or specially called meeting; shall be reduced to writing; executed for the District by the Chairman or General Manager; and filed with the proper officers of said District with a copy thereof filed with the County Auditor. Before any contract or requisition shall be placed into effect or become binding upon the Navigation District, it shall be submitted to the County Auditor for his approval and certification that funds are or will be available to meet the contract when due and a requisition, purchase order or work order issued in triplicate, one copy to be delivered to the contractor, one copy to be delivered to the County Auditor, and one copy to remain on file with the Navigation District. Provided, however, that the provisions of this Section shall not apply in cases of public calamity where it becomes necessary to act at once to appropriate money to relieve the distress of the citizens or to protect the property of the District; in cases of unforeseen damage to Navigation District property, machinery, or equipment, or in the handling of ships where time will not permit of advertisement; nor shall they apply to contracts for professional services. In all such cases the Board shall set out in the minutes of the District that an emergency exists and the facts which gave rise to the emergency. In such cases, bids and the advertisement therefor may be waived.

Any purchase or contract made without compliance with the provisions of this Act shall be void and unenforceable in any courts in this state.

Claims and obligations

Sec. 4. All claims against the District and all obligations of the Navigation District shall be paid only after approval of claims by the Board upon warrants issued or authorized by the governing board thereof after such claims have been submitted to and approved by the County Auditor. Such warrants shall be signed by the Chairman or by three or more of the Navigation Commissioners, or by the General Manager when authorized by order of the governing board. When authorized to do so, the General Manager may execute contracts previously awarded by the governing board and may issue and sign any warrant upon the funds of the District, when the account or accounts in payment of which such warrant is issued shall have been approved and ordered paid as herein provided. The General Manager may issue requisitions to put executed contracts into effect and may issue emergency requisitions for labor and supplies not to exceed One Hundred Dollars (\$100.00) provided by law. He may issue and sign all pay roll vouchers and checks, after the pay roll shall have been approved by the governing board, and payment of the sums thereon listed authorized by the Board.

Assistant to general manager

Sec. 5. In the event of the incapacity, absence, or inability of the General Manager to discharge any of the duties required of him, the Board may designate an assistant to the General Manager, to discharge any of the duties or functions required of the General Manager. Such assistant or other person shall give such bond and be subject to such limitations upon his authority as may be fixed by the order of the Board. Such appointment shall become effective when written notice of the designation and the authority vested shall have been given to the County Auditor.

Hospitalization and medical attention for employees

Sec. 6. The Board may, by an order or regulation entered in its minutes, provide for a system of hospitalization and medical attention for its employees, as a part of the compensation provided for such employees. All contracts of employment shall be in writing, and shall make reference to the regulations governing the medical attention and hospitalization benefits, and such regulations shall be a part of the contract of employment. Such regulations may be changed from time to time, as the necessities may require, in the judgment of the Board. The contracts of employment shall provide accordingly, and a copy of each contract shall be filed immediately with the County Auditor for his certificate of availability of funds before such contract shall become effective.

Authorized agents

Sec. 7. The General Manager, and such other employees as may be designated by the Board, shall act as authorized agents of the District in its warehousing activities but only upon order duly entered in the minutes of the Board and upon the filing and approval of a bond in such sum as shall be fixed by the Board guaranteeing the faithful performance of such duties.

Statistics and information; property, responsibility for

Sec. 8. Such Navigation Districts are empowered to require periodic statistics and information on rates and tonnage of all water-borne commerce from pilots, boatmen, tugboat operators, steamship and barge operators, and all employees of the District, and shall provide for an adequate inventory of all properties, real, personal, and mixed belonging to

such District, and for reports on property purchased, lost, stolen, sold, or destroyed. All officers and employees shall be held responsible for all property committed to their charge or custody, and shall not receive final payment of salary upon termination of employment until all such property in their charge or custody has been properly accounted for. The County Auditor shall prescribe the inventory system, the form, manner, and time of such inventory and the making of reports to him, and he shall have access to all books, records and property of the District for such purposes.

Provisions cumulative

Sec. 9. The provisions of this Act are cumulative of the provisions of Title 128, sub-division 5, and Title 34, sub-division 2, and other applicable laws which shall remain in full force and effect except where in conflict with this Act, in which event the provisions of this Act shall control. Acts 1945, 49th Leg., p. 130, ch. 90.

Emergency. Effective April 20, 1945.

Title of Act:

An Act regulating the governing boards of Navigation Districts in this state having a city containing 100,000 population or more according to the last preceding or any future Federal Census; authorizing the employment of a General Manager, prescribing his term of office, the terms

and conditions of his bond and the duties required; regulating the method and manner of making contracts; authorizing hospitalization and medical services as part of the compensation of employees of such Districts; authorizing the collection of statistics; declaring the provisions of this Act cumulative, and declaring an emergency. Acts 1945, 49th Leg., p. 130, ch. 90.

3. GENERAL PROVISIONS

Art. 8263e. Creating self-liquidating and supporting districts, bond issues; authorizing loans from Reconstruction Finance Corporation

Assessor, collector and equalization board acting for included municipality or district, see art. 1066b.

Art. 8263h. Development and improvement of navigation of inland and coastal waters

Sec. 47. In navigation districts composed of lands in two (2) counties, the Board of Navigation and Canal Commissioners shall be appointed in the following manner:

The Commissioners Court of the county of jurisdiction by a majority vote shall appoint one commissioner; the Commissioners Court of the other county which is included in whole or in part within the district, shall appoint a second commissioner by a majority vote; and the two (2) Commissioners Courts shall appoint the third commissioner at a joint meeting of the two (2) Courts called and presided over by the county judge of the county of jurisdiction. Notice in writing of said meeting shall be given by mail, properly stamped and addressed, or delivered in person, at least two (2) days prior to the date fixed for said meeting. Each of the county judges and county commissioners composing the Commissioners Courts of both counties shall be entitled to one vote in appointing said third commissioner and a majority vote of those present at such meeting shall be sufficient to make such appointment. Upon the termination of the term of office of each navigation and canal commissioner or in case of vacancy, a successor shall be appointed by the same Commissioners Court or Courts which appointed the navigation and canal commissioner whose place is being filled. Except as herein other-

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

wise provided, the provisions of said Chapter 5, Acts of the Thirty-ninth Legislature,¹ shall apply to the appointment of navigation and canal commissioners in navigation districts composed of lands in two (2) counties. Added Acts 1945, 49th Leg., p. 180, ch. 139, § 1.

¹ Article 8263h.

Sec. 48. All navigation districts organized under Article XVI, Section 59, of the Constitution of Texas, whether created by Act of the Legislature or organized under General Law, shall be authorized to issue revenue bonds upon the terms and under the provisions of Chapter 111, Acts of the Forty-third Legislature of Texas, First Called Session, 1933,¹ or Chapter 38, Acts of the Forty-seventh Legislature of Texas, Regular Session, 1941,² for the purpose of acquiring by purchase or construction, or both, improving, enlarging, extending, and repairing dams, reservoirs, water rights, water wells, canals, pipe lines, pumps, pump stations, lands, easements, rights of way, and all other property and facilities within or without the boundaries of the district, but not within the boundaries of any other navigation district or flood control district heretofore created, necessary to provide a water supply for the irrigation of lands and for industrial, commercial, domestic, municipal and other beneficial uses, but not within the boundaries of any other navigation district or flood control district heretofore created. Such districts shall be authorized to own and operate such facilities and to sell and deliver water to any person, group, corporation, or association within or without the boundaries of the district, but not within the boundaries of any other navigation district or flood control district heretofore created.

Revenue bonds may be issued for any or all of the purposes designated in this Section together with any or all of the purposes designated in either of the two (2) Acts mentioned in the next preceding paragraph or, at the discretion of the Board of Navigation and Canal Commissioners or Board of Directors, such bonds may be authorized for general improvement purposes without specifically designating the particular improvements to be acquired. In the latter case, the proceeds of sale of said bonds may be expended for any of the purposes for which revenue bonds are authorized to be issued by this Section and by either of the two (2) Acts mentioned in the next preceding paragraph respectively. As each installment of any authorized issue of bonds is prepared for delivery, the governing board shall specify the particular purposes for which the proceeds of such installment shall be expended.

Such district may enter into operating contracts and leases with responsible persons or corporations for the operation of such portions of the district's water distribution system as the Board of Navigation and Canal Commissioners may designate, but in such case, the annual rentals to be paid to the district by the lessee shall be a sum sufficient to permit the district to meet its obligations for the payment of that proportionate part of any revenue bonds, both principal, interest, reserves, and other requirements provided in the bond proceedings, which were issued to acquire the properties leased to the extent that the proceeds of such bonds were used to acquire the portion leased.

The authority granted by this Section shall be cumulative of, and in addition to, the authority granted by other laws. Added Acts 1945, 49th Leg., p. 180, ch. 139, § 1.

¹ Article 2350m note.

² Article 8247d.

Sec. 49. All proceedings for the creation of navigation districts composed of lands in two (2) counties and for the issuance of bonds by such districts and for the levy of taxes to pay said bonds, where a public

hearing was had before the Commissioners Court of one of said counties and the proposition of creating said district and issuing said bonds and levying said taxes was submitted to a vote of the duly qualified resident electors of said district, as proposed, who owned taxable property within said district, as proposed, and who had duly rendered the same for taxation and said proposition was approved by a majority of the voters voting thereat, all such proceedings for the creation of said districts and the issuance of said bonds and the levy of said taxes are hereby validated, approved, ratified, and confirmed and said districts and all bonds issued by said districts and the taxes levied to pay the same are hereby validated, approved, ratified, and confirmed and neither said districts nor said bonds nor said taxes shall be held to be invalid by reason of the failure to comply with any statutory provision or because of any irregularity in the manner in which said districts were created and organized or said bonds were voted, authorized, and issued or said taxes were levied. Added Acts 1945, 49th Leg., p. 180, ch. 139, § 1.

Emergency. Effective May 1, 1945.

the remainder hereof shall not be affected thereby but shall remain in full force and effect."

Section 2 of the Act of 1945 read as follows:

"If any paragraph, clause, or provision of this Act shall be held unconstitutional,

TITLE 129—WILLS

Art. 8281. 7855, 5333, 4857 Who may execute

Every person aged twenty-one (21) years or upward, or who may be or may have been lawfully married, or who may be a member of the Armed Forces of the United States or the Auxiliaries thereof or Maritime Service at the time of the making of the will, being of sound mind, shall have power to make a last will and testament, under the rules and limitations prescribed by law. As amended Acts 1945, 49th Leg., p. 469, ch. 297, § 1.

Emergency. Effective June 4, 1945.

Section 2 of the Act of 1945 amends art. 3348. Section 3 read as follows: "If any section, sentence, clause or phrase of this

Act is held to be unconstitutional or otherwise invalid, it shall not affect the validity of the remaining portion thereof."

TITLE 130—WORKMEN'S COMPENSATION LAW

Art. 8306. Damages and compensation for personal injuries; defenses

Texas Defense Guard, Workmen's Compensation for members of, see article 5891b.

THE PENAL CODE

TITLE 7—RELIGION AND EDUCATION

CHAPTER THREE—TEACHERS AND SCHOOLS

Art. 298. Exempt from attendance

(e) Any child more than sixteen (16) years of age who has satisfactorily completed the work of the ninth grade, and whose services are needed in support of a parent or other person standing in parental relation to the child, may, on presentation of proper evidence to the county superintendent of public instruction, be exempted from further attendance at school. As amended Acts 1945, 49th Leg., p. 185, ch. 142, § 1.

Emergency. Effective May 1, 1945. any part of Senate Bill No. 278, Acts of the Regular Session of the Forty-ninth Legislature, Vernon's Ann.Civ.St., art. 2892b.
Section 2e of the Act of 1945 provided that nothing in the act should change or amend

TITLE 9—OFFENSES AGAINST THE PUBLIC PEACE

CHAPTER THREE—AFFRAYS AND DISTURBANCES OF THE PEACE

Art.

475a. Motor boats, operating without muffler or silencer [New].

Art. 475a. Motor boats, operating without muffler or silencer

Section 1. From and after the passage of this Act, it shall be unlawful for any person or persons to operate a motor boat without a muffler on its motor, or to operate a motor boat without having the muffler on its motor silenced, within one-half ($\frac{1}{2}$) mile of any private residence within this State.

Sec. 2. Any person or persons violating Section 1 of this Act shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than Ten Dollars (\$10) nor more than One Hundred Dollars (\$100), or may be imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or may be punished by both such fine and imprisonment.

Sec. 3. The provisions of this Act shall not apply to persons when engaged in motor racing events or contests in which three (3) or more contestants and three (3) or more motor boats are participating. Acts 1945, 49th Leg., p. 475, ch. 301.

Effective 90 days after June 5, 1945, date of adjournment.

Title of Act:

An Act making it unlawful to operate motor boats without mufflers on their motors, or to operate motor boats without

having the mufflers on their motors silenced, within one-half ($\frac{1}{2}$) mile of any private residence within this State; fixing penalties; providing exceptions; and declaring an emergency. Acts 1945, 49th Leg., p. 475, ch. 301.

TITLE 11—OFFENSES AGAINST PUBLIC POLICY AND ECONOMY

CHAPTER THREE.—WIFE AND CHILD DESERTION

Art. 606a. Bringing child into state for placing out or adoption without consent of State Board of Control

Transfer of child welfare services to Department of Public Welfare, see Vernon's Ann.Civ.St., art. 695e.

CHAPTER EIGHT.—TEXAS LIQUOR CONTROL ACT

I. INTOXICATING LIQUORS

Art. 666—30. Beverages and property forfeited to state; sale; destruction; ceiling prices during emergency; reports

(a). All alcoholic beverages and the containers thereof, equipment, and other property forfeited to the state as nuisances, unless otherwise herein provided, and all illicit beverages and the containers thereof forfeited to the state, shall be turned over to the Board for public or private sale in such place or manner as it may deem best; provided, that the Board shall exercise diligent effort to obtain the best available price for anything thus sold; provided, further, that any bill of sale executed by the Board or Administrator shall convey a good and valid title to the purchaser as to any such property sold. The Board shall sell alcoholic beverages only to the holders of qualified permits or licenses. No alcoholic beverages unfit to be sold for public consumption, or of illicit manufacture, may be sold by the Board, but are declared a nuisance per se and may be destroyed by the Board. The certificate of any qualified chemist shall be accepted by the Board as evidence of unfitness of such alcoholic beverages.

In the event the United States Government shall provide any plan or method whereby illicit alcoholic beverages and other property belonging to or forfeited to the state as nuisances shall be sold at ceiling prices during a national emergency, the Board shall have the right to comply with Federal law or regulations in the sale or disposal of such illicit alcoholic beverages or other property, even to the extent of partially or wholly abrogating any provisions hereof which may be in conflict with the Federal law or regulations.

(b). All moneys derived from the sale of any beverages or property shall be placed in a separate fund in the State Treasury to be designated as the Confiscated Liquor Fund. Twenty per centum (20%) of said Confiscated Liquor Fund shall be available to the Board to defray the expenses of purchasing and accumulating evidence as to violations of and for the purpose of enforcing the provisions of this Act and to defray the expenses incurred in assembling, storage, transportation, sale and accounting for such confiscated liquor and property. Any balance remaining in said fund on September 1st of each biennium shall be transferred and deposited in the General Fund of the State of Texas.

As to liquors confiscated by representatives of the Board, or any peace officer, it shall be incumbent upon the officer making the seizure to list each and every item or items so confiscated and the place and name of owner, operator, or person from whom such seizure is made.

Such report shall be made in quadruplicate, two copies of which shall be verified by oath; one verified copy shall be retained in the permanent files of the Liquor Control Board or other agency making the seizure, and one verified copy shall be filed with the Comptroller of the State of Texas, which shall constitute a permanent file, and both of which shall be subject to inspection by any member of the Legislature or any duly authorized law-enforcement agency of the State of Texas, and one copy shall be delivered to the owner, operator, or person from whom such seizure is made. A false statement of said confiscated liquor, beer, wine, or other personal property shall be punishable as now provided for false swearing. As amended Acts 1945, 49th Leg., p. 144, ch. 95, § 1.

Emergency. Effective April 25, 1945.

TITLE 12—PUBLIC HEALTH

CHAPTER ONE—ACTS INJURIOUS TO HEALTH

Art.

701b. Convalescent homes [New].

705b—1. Perpetual care [New].

Art. 698b. Pollution of public bodies of surface water prohibited

Sec. 5. Any person, firm, corporation, association, city, town or other political subdivision of this State, or any agent, officer, employee, or representative of any person, firm, corporation, association, town, city, or other political subdivision of this State who violates any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than One Hundred Dollars (\$100), nor more than Two Hundred Dollars (\$200); and each day that such a violation is committed shall constitute a separate offense. As amended Acts 1945, 49th Leg., p. 373, ch. 240, § 1.

Amendment of 1945 to section 5 become effective May 24, 1945.

Art. 701b. Convalescent homes

Any person who violates any provision of Section 1 of this Act,¹ and any officer, director or agent of any corporation who shall consent to such violation, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200) for each offense; and each day's violation of any such provision shall constitute a separate offense. Acts 1945, 49th Leg., p. 577, ch. 342, § 3.

¹ Civ.St. art. 4442b.

Effective 90 days after June 5, 1945, date of adjournment.

Sections 1, 2, 4-6 of the Act of 1945 are published as Civ.St. art. 4442b.

Arts. 705a, 705b. Repealed. Acts 1945, 49th Leg., p. 559, ch. 340, § 29.

Eff. 90 days after June 5, 1945, date of adjournment

Location of cemeteries, see Civ.St. Art. 912A—24.

Art. 705b—1. Perpetual care

It shall be unlawful for any person, firm, association, corporation, or municipality, or any officer, agent, or employee thereof, to sell, offer for sale, or advertise any cemetery plot or the exclusive right of sepulture therein under the representation that such plot is under perpetual

care, before a perpetual care fund as provided for by law has been established for the cemetery in which such property so sold, offered for sale, or advertised is situated; or to engage in or transact any of the businesses of a cemetery within this State other than by means of a corporation organized for such purpose, except as otherwise provided by law; or to fail to refuse to comply with the requirements of the law as to the filing of a statement concerning the perpetual care fund with the Secretary of State, or to fail or refuse to publish said statement as provided for by law, or to fail or refuse to post the notices with reference to perpetual care required by law; or to invest perpetual care funds otherwise than as provided by law; or to fail or refuse to keep the rec-

ords of interment required by law; or to sell or offer for sale or advertise for sale cemetery lots or the exclusive right of sepulture therein for purposes of speculation or investment; or to represent through advertising or printed matter that a retail department will later be established for the resale of cemetery lot purchasers that specific improvements will be made in the cemetery or that specific merchandise or service will be furnished the lot owner, unless adequate funds or reserves have been created by the operator of the cemetery for each such purpose; or for any officer, agent, or employee of any cemetery or cemetery association, to pay or offer to pay any commission, rebate, or gratuity to any funeral director or employee thereof, or for any cemetery association or any officer or employee thereof to offer a free lot or lots either in a drawing or lottery or in any other way except for actual immediate burial of indigent persons. Any person, firm, or corporation violating any of the provisions of this Section shall be guilty of misdemeanor, and on conviction thereof shall be fined not more than Five Hundred Dollars (\$500) or, if a person, imprisoned not exceeding six (6) months in a county jail, or punished by both such fine and imprisonment. Any corporation organized for cemetery purposes which shall violate the provisions of this Act¹ shall unless such violation is corrected within ninety (90) days after notice of such violation served upon it by the Attorney General of this State, thereby forfeit its charter and right to do business in this State; and when such violation shall be brought to the attention of the Attorney General of this State it shall be his duty to serve such notice, and, after the expiration of ninety (90) days without correction of such violation, to institute suit or quo warranto proceedings in any county in this State where such violation might occur, in the District Court of such county, for the forfeiture of the charter of such offending corporation and the dissolution of its corporate existence; and for such purposes venue is hereby conferred upon the District Courts in this State. Acts 1945, 49th Leg., p. 559, ch. 340, § 27.

¹ This article and Civ.St. articles 912a—1 to 912a—27.

Effective 90 days after June 5, 1945, date of adjournment.

Sections 1-26, 28 of the Act of 1945 are published as Civ.St. arts. 912a—1 to 912a—27.

CHAPTER TWO—UNWHOLESOME FOOD, DRINK OR MEDICINE

Art.

719d. Sale of meat or meat products
[New].

Art. 719d. Sale of meat or meat products

Sec. 15. It shall be unlawful to knowingly sell for human consumption meat from animals affected with the following diseases: Carcinoma or sarcoma, actinomycosis, a downer showing temperatures of one hundred and six (106) degrees, black leg, so-called hemorrhagic septicemia, anthrax, rabies, shipping fever, hog cholera, tetanus, pyemia, mastitis, and erysipelas and other visible diseases.

Sec. 16. It shall be unlawful for any person, persons, firm, or corporation to knowingly slaughter for food for human consumption any diseased animal or animals knowing them to be diseased and unfit for food for human consumption, and all such diseased animals shall be slaughtered only at either a Federal or State approved slaughter plant.

Sec. 17. It shall be unlawful for any person, persons, firm, or corporation to knowingly sell or offer for sale for food for human consumption or to process meat or meat food products from any animal which

died other than by slaughter for food for human consumption purposes, and such dead animals shall be denatured.

Sec. 18. It shall be unlawful to sell for food for human consumption meat from the carcass of horses, dogs, mules, donkeys, cats, or other animals not normally used for human food.

Sec. 19. **Penalty.** Whoever violates any provision of this Act shall upon conviction be fined in the sum of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) and each separate violation shall constitute a separate offense. Acts 1945, 49th Leg., p. 554, ch. 339.

Effective 90 days after June 5, 1945, date of adjournment.

Sections 1-14, 20 of the Act of 1945 are published as Civ.St. art. 4476-3.

CHAPTER FOUR—BARBER SHOPS AND BEAUTY PARLORS

Art. 734a. Texas Barber Law

Annual renewal of certificates; fee; restoration of expired certificates

Sec. 20. That every registered barber and every registered assistant barber, who continues in active practice or service, shall annually on or before the first day of November of each year, renew his certificate of registration which shall be issued by the Board of Barber Examiners, upon the payment of a renewal fee of Five Dollars (\$5). Every certificate of registration which has not been renewed prior to that date shall expire on the first day of November of that year. A registered barber or a registered assistant barber, whose certificate of registration has expired, may, within thirty (30) days thereafter, and not later, have his certificate of registration restored upon making a satisfactory showing to the Board, supported by his personal affidavit, which, in the opinion of the Board, will excuse the applicant for having failed to renew his certificate within the time required by this Act. Any registered barber who retires from the practice of barbering for not more than five (5) years may renew his certificate of registration by making proper showing to the Board, supported by his personal affidavit, which in the opinion of the Board would justify the Board in issuing a certificate to such applicant as upon an original application upon payment of a fee of Ten Dollars (\$10) when filing affidavit as fee for making examination. As amended Acts 1945, 49th Leg., p. 579, ch. 343, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Section 2 of the Act of 1945 read as follows:

"If any part or parts of this Act shall be held invalid or unconstitutional, it is here-

by declared as the legislative intent that the remaining sections and provisions thereof would have been enacted without such invalid portions. All laws or parts of laws in conflict herewith are hereby repealed."

Additional inspectors

The additional funds derived by this Act are hereby appropriated to be used by the State Board of Barber Examiners to employ five (5) additional inspectors, for traveling expenses and office equipment. Inspectors' salaries shall be the same as those set out in Senate Bill No. 317,¹ Acts of the Regular Session of the Forty-ninth Legislature. Acts 1945, 49th Leg., p. 579, ch. 343, § 1a.

¹Laws 1945, p. 810, ch. 378.

TITLE 13—OFFENSES AGAINST PUBLIC PROPERTY

Chap.		Art.
6A.	Miscellaneous offenses	978o

CHAPTER ONE—HIGHWAYS AND VEHICLES

Art. 827a, sec. 5. Weight of load

Sec. 5. Except as otherwise provided by law, no commercial motor vehicle, truck-tractor, trailer or semi-trailer, nor combination of such vehicles, shall be operated over, on, or upon the public highways outside the limits of an incorporated city or town, the total gross weight of which exceeds that given by the following formula:

W equals C times (L plus 40), where

W equals total gross weight, including load and vehicle, in pounds;

C equals 700;

L equals the distance between the first and last axles of a vehicle or combination of vehicles, in feet.

Under the foregoing formula, the gross weight is ascertained by adding forty (40) to the distance in feet between the first and last axles of a vehicle or combination of vehicles and multiplying this sum by seven hundred (700). Provided, however, the gross weight shall never exceed forty-eight thousand (48,000) pounds.

Provided, however, the gross weight permitted by the foregoing formula shall be subject to the following restrictions and limitations:

No such vehicle nor combination of vehicles shall have a greater weight than six hundred (600) pounds per inch width of tire upon any wheel concentrated upon the surface of the highway and using high-pressure tires, and a greater weight than six hundred and fifty (650) pounds per inch width of tire upon any wheel concentrated upon the surface of the highway and using low-pressure tires, and no wheel shall carry a load in excess of eight thousand (8,000) pounds on high-pressure tires and nine thousand (9,000) pounds on low-pressure tires, nor any axle a load in excess of sixteen thousand (16,000) pounds on high-pressure tires, and eighteen thousand (18,000) pounds on low-pressure tires. An axle load shall be defined as the total load on all wheels whose centers may be included between two parallel transverse vertical planes forty (40) inches apart. As amended Acts 1945, 49th Leg., p. 218, ch. 162, § 1.

Effective 90 days after June 5, 1945, date of adjournment. Section 2 of the amendatory Act of 1945 repealed all conflicting laws and parts of laws.

Art. 827a, sec. 9a. Warning signals by commercial vehicles and wreckers

Sec. 9-a. Whenever any commercial motor vehicle, truck, tractor, trailer or semi-trailer, or motor bus, or any vehicle equipped with a crane or lifting device ordinarily referred to as a "wrecker" shall during the period from one-half hour after sunset to one-half hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of two hundred (200) feet, be stopped upon the main traveled portion of any highway in this State for as long as fifteen minutes, the driver or operator thereof shall place a warning signal upon the highway on the roadway side of such vehicle, at a distance not less than one hundred and fifty (150) feet,

nor more than two hundred (200) feet, from such parked vehicle near the edge of the roadway, in every direction from which a vehicle may approach; such warning signal to be with a lighted flare or electrical device, capable of operation, under all weather conditions, for not less than twelve (12) continuous hours, or a red reflex reflector, of a type approved by the Department of Public Safety of the State of Texas, and said flare, electrical device or reflector shall be placed in such a way as to be plainly observed as a signal by the driver of any approaching vehicle for a distance of five hundred (500) feet.

No person shall operate, or permit, or cause to be operated upon any public highway, road or street within this State any commercial motor vehicle, truck, tractor, trailer or semi-trailer, or motor bus, or any vehicle equipped with a crane or lifting device ordinarily referred to as a "wrecker" without three (3) or more signal flares or electrical warning devices capable of operation, under all weather conditions, for not less than twelve (12) continuous hours, or three (3) or more red reflex reflectors, of a type approved by the Department of Public Safety of the State of Texas, capable of plain observation for a distance of not less than five hundred (500) feet. As amended Acts 1945, 49th Leg., p. 394, ch. 256, § 1.

Effective May 28, 1945.

Section 1 of the amendatory act of 1945 purported to amend section 9 of the act of 1929, as amended, by adding a new section

to be known as section 9a, but seems to have been intended as an amendment of section 9a, as previously added.

Art. 827a, sec. 9b. Penalty

Sec. 9-b. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding Fifty Dollars (\$50) for the first offense, and by a fine not exceeding Two Hundred Dollars (\$200) for the second offense, or not exceeding Five Hundred Dollars (\$500), or imprisonment in the county jail, not to exceed sixty (60) days, or by both such fine and imprisonment in the discretion of the Court for each subsequent offense thereafter. Acts 1945, 49th Leg., p. 394, ch. 256, § 2.

Effective May 28, 1945.

CHAPTER SIX—GAME, FISH AND OYSTERS

Art.

909a—2. Possession or storage of game birds, animals, etc., lawfully taken or killed; repeal of conflicting provisions [New].

927a. Fresh water fish; no closed season; size and limits; penalty; repeal of conflicting local, general or special laws [New].

Art.

978l—4. Lake Texoma formed by Denison Dam, and surrounding federal property; taking of game and fish; licenses; penalty; reciprocal agreement with Oklahoma [New].

978m. New; repealed.

978n. Game management unit for benefit of Texas Bighorn Mountain Sheep [New].

Art. 879c—1. Repealed. Acts 1945, 49th Leg., p. 427, ch. 270, § 1. Eff. 90 days after June 5, 1945, date of adjournment

This article was derived from Acts 1930, 41st Leg., 4th C. S., p. 10, ch. 10, § 1, as amended by Acts 1931, 42nd Leg., Spec.L. p. 417, ch. 202, § 1, and related to an open

season for killing wild turkeys in any county composing the third, fifth and fourteenth Senatorial Districts and counties having a population of over 350,000.

Art. 879g—2a. Collared Peccary or Javelina in Webb, Starr and Zapata counties

Provided however, that it shall be lawful to take, capture, shoot, or kill Collared Peccary or Javelina in the Counties of Webb, Starr, Zapata and Dimmit, Texas, at any time, and an open season for Collared Peccary or Javelina in such Counties is hereby declared. Provided further, that it shall be unlawful in such Counties to have or take any Collared Peccary or Javelina, or any part of same, in possession for the purpose of barter or sale, or to sell or to offer for sale any Collared Peccary or Javelina, or any part of same, and any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten Dollars (\$10) nor more than Fifty Dollars (\$50), and each Collared Peccary or Javelina, or any part thereof, taken or possessed or offered for sale or possessed for the purpose of sale, or sold, in violation of this Act shall constitute a separate offense. As amended Acts 1945, 49th Leg., p. 158, ch. 110, § 1.

Emergency. Effective April 30, 1945.

Art. 881b. Open season and bag limit for migratory game birds; regulations

Retention of game animals and birds in public or private storage plant, refrigerator or locker, repeal of conflicting provisions, see article 909a—2.

Art. 909. Storage after closed season

Storage of game animals and birds in public or private storage plant, refrigerator or locker, see article 909a—2.

Art. 909a—2. Possession or storage of game birds, animals, etc., lawfully taken or killed; repeal of conflicting provisions

Section 1. It shall be lawful for any person at any time to have in his possession, or to place in and have in any public or private storage plant, refrigerator or locker, any game birds, (migratory or other), game animals, water fowl or migratory water fowl, lawfully taken or killed, not in excess of the number or amount permitted by law to be possessed.

Sec. 2. All laws and parts of laws in conflict herewith are repealed hereby to the extent of such conflict; and specifically repealed hereby is that portion of House Bill No. 451, Chapter 252, Acts of the Regular Session, 48th Legislature,¹ relative to retention limits on certain migratory birds and fowl, and the fixing of retention limits thereon; and especially repealed hereby are any and all other laws, or parts of laws, to the extent which such place limitation upon the time within which game birds, game animals, water fowl or migratory water fowl, lawfully taken or killed, may be possessed, or placed in or kept in any public or private storage plant, refrigerator or locker. Acts 1945, 49th Leg., p. 2, c. 2.

¹ Art. 881b.

Emergency. Effective Jan. 18, 1945.

Similar prior provisions, see article 909a—1.

Title of Act:

An Act providing that it shall be lawful for any person at any time to have in his possession, or to place in and have in any public or private storage plant, refrigerator or locker, any game birds, (migratory or other), game animals, water fowl, or migratory water fowl, lawfully taken or

killed, not in excess of the number or amount permitted by law to be possessed; repealing all laws in conflict therewith; and especially repealing that portion of House Bill No. 451, Chapter 252, Acts of the Regular Session, 48th Legislature, relative to retention limits thereon, or the fixing of retention limits thereon; and declaring an emergency. Acts 1945, 49th Leg., p. 2, c. 2.

Art. 923qa—7. Beaver or otter; license required to trap outside county of residence

Sec. 2a. Provided further, that all of the provisions of this Act shall also apply to and prevail in Maverick County. Added Acts 1945, 49th Leg., p. 157, ch. 109, § 1.

Act of 1945 which added section 2a became effective April 30, 1945.

Section 2 of the Act of 1945 repealed all conflicting laws and parts of laws in so far as they may conflict with any portion of this Act.

Art. 927a. Fresh water fish; no closed season; size and limits; penalty; repeal of conflicting local, general or special laws

Section 1. There shall be no closed season or period of time when it shall be unlawful to take, catch or retain fresh water fish by the use of ordinary hook and line or artificial lures. Other devices, the use of which is permitted by law, may be used for the purpose of taking fresh water fish at any time of the year, but only in compliance with such other restrictions as are placed on their use by the laws of this state.

Sec. 2. It shall be unlawful for any person to take from public fresh waters and retain, or place in any container, boat, creel, live-box or on any fish-stringer any large-mouth black bass, small-mouth black bass, spotted bass, or any sub-species of large-mouth black bass, small-mouth black bass, spotted bass, that is less than seven (7) inches in length.

Sec. 3. It shall be unlawful for any person in any one day to catch and retain, or to place on or in any device or container for holding same while he is fishing, any fish that is taken from the public fresh waters of this state in excess of the following limits: large-mouth black bass, small-mouth black bass, spotted bass, or any sub-species of the same, singly or in the aggregate, fifteen (15), of which not more than ten (10) shall be of greater length than eleven (11) inches; white bass, twenty-five (25); blue catfish, channel catfish and yellow catfish, singly or in the aggregate, twenty-five (25); crappie or white perch, twenty-five (25).

Sec. 4. Any person who violates any provisions of this Act, upon conviction shall be fined in a sum not less than Five (\$5.00) Dollars, nor more than Fifty (\$50.00) Dollars.

Sec. 5. All laws or parts of laws, local, general or special, insofar as they provide a closed season or period of time when it is unlawful to take or catch fish or to use artificial lures, or insofar as they provide a size limit, possession limit or daily catch limit, or otherwise conflict with any provision of this Act, shall be and the same are hereby repealed; except that nothing herein contained shall repeal Chapter 213, House Bill No. 654, Regular Session, 48th Legislature,¹ or regulations made thereunder to govern the taking of fish in Lake Texoma, which is the body of water impounded by the dam at Denison, Texas. Acts 1945, 49th Leg., p. 13, c. 9.

¹ Art. 978l—3.

Emergency. Effective Feb. 26, 1945.

Title of Act:

An Act specifying the time when fresh water fish may be taken; limiting the numbers of certain fresh water fish that may be taken and possessed; fixing size limits to govern the taking and retention of fresh water fish; repealing all local, special or general laws insofar as they fix a closed season on fishing or using artificial

lures; regulating the size of fish that may be taken or the number that may be taken; repealing all laws or parts of laws in conflict herewith, excepting regulations made under, and the provisions of, Chapter 213, House Bill No. 654, Regular Session, 48th Legislature; fixing a suitable penalty for violation of any provisions of this Act; and declaring an emergency. Acts 1945, 49th Leg., p. 13, c. 9.

Art. 934a. Commercial fisherman and wholesale dealer's license; definitions

License fees; sizes of fish which may be sold

12. Place of business as used in this Act shall not apply to a public cold storage vault, nor to a temporary receiving station or vehicle from which no orders are taken or from which no shipments or deliveries are made other than to the place of business of the licensee in the State of Texas. Added Acts 1945, 49th Leg., p. 289, ch. 209, § 1.

13. Provided that it shall be unlawful for any person engaged in the business of commercial fishermen, wholesale or retail fish dealer as defined in this Chapter, to have in his possession, place of business, on a boat or vehicle for the purpose of sale, or for any person to buy, sell, or offer for sale, any of the following species of fish of greater or less length than hereafter set out:

Salt Water Species	Maximum Length	Minimum Length
Red Fish or Channel Bass	35 inches	14 inches
Flounder and Speckled Sea Trout	None	12 inches
Sheephead and Pompano	None	9 inches
Mackerel	None	14 inches
Gafftopsail	None	11 inches

Fresh Water Species. No fresh water fish of less length than provided by Section 3, Senate Bill No. 9,¹ page 13, Acts of the Forty-ninth Legislature,² provided that such limitations as to the numbers of catfish in possession shall not apply to persons licensed under this Chapter, where the same are caught or passed in accordance with other laws of this State and which provisions shall not apply in any county having a local or special law in conflict herewith.

Proof of the possession of any undersized or oversized fish in the place of business of any wholesale or retail fish dealer or on board any boat engaged in commercial fishing or in any commercial vehicle, shall constitute prima facie evidence of possession for the purpose of sale. Venue under this Act shall be established when such illegal fish are found in possession, where such fish are sold or offered for sale or the place from which said fish are shipped. Provided that it shall be lawful for any licensee to process and sell any lawful fish by cutting, filleting, wrapping, and freezing or otherwise preparing the same for market. Added Acts 1945, 49th Leg., p. 289, ch. 209, § 1.

¹ So in enrolled bill. Probably should read "S.B. # 93."

² Article 927a.

14. Provided that all laws and parts of laws in conflict therewith are hereby repealed; providing for the repeal of Chapter 334, Acts of the Regular Session of the Forty-eighth Legislature;¹ Sections 1c, 1d, and 1e of Article 941 of the Penal Code, State of Texas; and providing for the repeal of Section 1 and Section 1a of Article 941, Penal Code, State of Texas, as amended, in so far as they apply to the tidal waters of Cameron County north of a line due east and west from a point on Padre Island shore, four (4) miles north of the North Brazos Santiago Jetties and by repealing Chapter 487, Acts of the Regular Session of the Forty-fifth Legislature.² Added Acts 1945, 49th Leg., p. 289, ch. 209, § 1.

¹ Article 978j note.

² Article 978m.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 934b—1. Nonresident commercial fisherman and fishing boats; license; definitions

Section 1. A "Non-resident Commercial Fisherman" for the purposes of this Act is hereby defined as follows:

Any person who is a citizen of any other State, or any person who has not continually been a bona fide inhabitant of this State for a period of time more than twelve (12) months; the word person shall include partnerships, associations and corporations who have not continually had a bona fide place of business in this State for a period of time more than twelve (12) months, and who takes, assists in taking or catching, fish or shrimp or oysters, or any other edible aquatic life from the tidal salt waters of this State for pay or for the purpose of sale, barter or exchange.

Non-resident commercial fishing boat

Sec. 2. A "Non-resident Commercial Fishing Boat" for the purposes of this Act is hereby defined as follows:

Any boat or vessel, which is registered in any other State, or which has not continually been registered in this State for a period of time more than twelve (12) months, or which is not owned by any person, partnership, association of persons or corporation which has had a bona fide place of business in this State for a period of time more than twelve (12) months, and which is used for the purpose of taking, or assisting in taking or catching, fish, shrimp, oysters or any other edible aquatic life from the tidal salt waters of this State for pay or for the purpose of sale, barter or exchange.

License to fish required; amount of fee

Sec. 3. Before any "Nonresident Commercial Fisherman" shall take or assist in taking any fish or 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, Fish and Oyster Commission of Texas, or one of its authorized agents, privileging them so to do.

The fee for a Non-resident Commercial Fisherman's License shall be Two Hundred Dollars (\$200).

License for Non-resident Commercial Fishing Boat required; amount of fee

Sec. 4. Before any "Non-resident Commercial Fishing Boat" shall be used for the purpose of taking or assisting in taking or catching, fish, shrimp, oysters or any other edible aquatic life from the tidal salt waters of this State for pay or for the purpose of sale, barter or exchange, a license to be known as "Non-resident Commercial Fishing Boat License" shall first be procured from the Game, Fish and Oyster Commission of Texas, or one of its authorized agents, privileging them so to do.

The fee for a Non-resident Commercial Fishing Boat License shall be Two Thousand, Five Hundred Dollars (\$2,500).

Reciprocity provisions

Sec. 5. The Game, Fish and Oyster Commission of Texas, or its authorized agent or agents, shall have the right and authority to refuse to sell or grant any such Non-resident Commercial Fisherman's License or Non-resident Commercial Fishing Boat License to the residents of any State that may now or hereafter refuse to sell or grant equal privileges or licenses to the citizens of this State.

Boundaries of commercial fishing region

Sec. 6. The licensed commercial fishermen, resident or non-resident, may fish commercially in the coastal waters bounded on the east by a line drawn from the center of Sabine Pass, cutting across the East Sabine Jetty at a point two thousand (2,000) feet north of the present fishing pier known as the Jaycee Pier, and extending three (3) marine leagues into the Gulf of Mexico, following along the coast line of Texas to the present acknowledged boundary between the State of Texas and the Republic of Mexico.

Bringing aquatic products into state for sale

Sec. 7. It shall be unlawful for any Non-resident Commercial Fishermen to bring into this State or carry out of this State any aquatic products on any boat for pay, or for the purpose of sale, barter or exchange, without first having procured a "Non-resident Commercial Fisherman's License."

Bringing in or taking out aquatic products in fishing boats

Sec. 8. It shall be unlawful for any person, corporation or association of persons to bring into this State or carry or take out of this State in any Non-resident Commercial Fishing Boat, as herein defined, any aquatic products for pay, or for the purpose of sale, barter or exchange, without first having procured a "Non-resident Commercial Fishing Boat License."

Penalty

Sec. 9. Any person, corporation or association of persons failing to comply with, or who violates any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), or imprisonment in jail not less than one month nor more than one year; or by both such fine and imprisonment; and providing that the Game, Fish and Oyster Commission of Texas, or its authorized agent, shall have the power and right to seize and hold boats, nets, seines, trawls or other tackle in the possession of any Violator or violators of this Act, as evidence until after trial of the defendant or defendants, and no suit shall be maintained against the Game, Fish and Oyster Commission of Texas, or its authorized agent or agents therefor.

Boat for enforcement purposes

Sec. 10. The Game, Fish and Oyster Commission of Texas shall keep and maintain a suitable boat for the purpose of enforcing the provisions of this Act.

Moneys to Fish and Oyster Fund

Sec. 11. All moneys collected under the provisions of this Act or because of fines paid for violation of the provisions of this Act, shall be remitted to the Game, Fish and Oyster Commission of Texas, not later than the 10th day of the month following that collection, and shall be deposited by said Game, Fish and Oyster Commission of Texas in the State Treasury to the credit of the Fish and Oyster Fund.

Civil Proceedings

Sec. 12. All penalties provided herein shall be enforced against corporations violating any of the provisions of this Act by civil proceedings instituted by the proper enforcement officers of this State.

Repeal; partial invalidity

Sec. 13. All laws or parts of law in conflict with this Act are hereby expressly repealed; and if any Section or part whatsoever of this Act shall be held to be invalid, as in contravention of the Constitution such invalidity shall not affect the remaining portions thereof, it being the express intention of the Legislature to enact such Act without respect to such Section or part so held to be invalid. As amended Acts 1945, 49th Leg., p. 78, ch. 55, § 1.

Emergency. Effective April 2, 1945.

Title of Act:

An Act defining a "nonresident commercial fisherman"; providing for a nonresident commercial fishing license and the fee for same; specifying boundary lines within which commercial fishermen may fish; providing a person must have a nonresident fishing license to bring aquatic products in-

to this State on a boat and offer same for sale; providing a penalty for violation of the Act; providing for the seizure of boats and tackle for evidence; providing for maintenance of a boat to enforce the provisions of this Act; providing for disposition of funds collected under this Act; and declaring an emergency. Acts 1939, 46th Leg., p. 238.

Art. 941. Using seines or gigs

Secs. 1c to 1e Repealed. Acts 1945, 49th Leg., p. 289, ch. 209, § 1.

Repealed in Part. Sections 1 and 1a of this article were repealed, in so far as they apply to the tidal waters of Cameron County north of a line due east and west from a point on Padre Island shore, four

miles north of the North Bragos Santiago Jetties by Act 49th Leg., p. 289, ch. 209, § 1.

Maximum and minimum lengths of fish which may be sold, see art. 934a.

Art. 978j. Local game and fish laws

For fish and game laws applicable only to the named counties, see notes under Vernon's Ann.Pen.Code, art. 978j.

Art. 978l—4. Lake Texoma formed by Denison Dam, and surrounding federal property; taking of game and fish; licenses; penalty; reciprocal agreement with Oklahoma

Section 1. Chapter 213, House Bill No. 654, Regular Session, Forty-eighth Legislature,¹⁶ directs that the Game, Fish and Oyster Commission of the State of Texas shall promulgate suitable and equitable regulations to permit the taking of game and fish in that portion of the State of Texas in Grayson and Cooke Counties that is "inundated by the waters of the Red River and its tributaries that are impounded by a dam across the channel of said river near Denison, Texas," and that this shall also apply "to any other portion of that area of land acquired or that may hereafter be acquired by the United States government for the operation of their reservoir on the Red River beginning near Denison, Texas." It is hereby provided that the Game, Fish and Oyster Commission shall continue to exercise the authority prescribed under the directions given in said House Bill No. 654, Regular Session, Forty-eighth Legislature. The reservoir that is impounded by the dam across the Red River near Denison, Texas, is now known as Lake Texoma,¹ a portion of which is situated within the boundaries of the State of Oklahoma. The Game, Fish and Oyster Commission is hereby authorized to make with the Game and Fish Department of the State of Oklahoma such joint investigations as are necessary to determine facts on which to base sound management of the game and fish resources of Lake Texoma. In so far as is consistent with the laws of this State and the United States, it is desirable, in exercising the authority that is given in House Bill No. 654, Regular Session, Forty-eighth Legislature, that the Game, Fish

and Oyster Commission of the State of Texas shall use its best efforts to arrive at a reciprocal understanding with the authorized officials of the State of Oklahoma to the end that uniform regulations for the taking of game and fish may apply to all of Lake Texoma.

Sec. 2. It shall be unlawful for any person to fish or to attempt to take or catch fish, or to hunt with a gun on or over Lake Texoma or its connecting lands that are owned by the United States government, without having in possession on his person the currently valid license that is required of him by any provision of this Act, and entitling him to the privileges given under such license.

Sec. 3. A resident hunting license, as now provided for by law, shall be required of any resident citizen of this State who hunts on or over Lake Texoma or its federally owned area. Other license requirements and the privileges given under same shall be as follows: Lake Texoma Resident Fishing License, fee One Dollar and Ten Cents (\$1.10), entitling any resident citizen of this State to fish in Lake Texoma; Lake Texoma Special Fishing License, fee One Dollar and Ten Cents (\$1.10), which shall entitle any resident citizen of Oklahoma who is licensed to fish under the laws of that State to fish in the Texas portion of Lake Texoma; Lake Texoma Nonresident Fishing License, at a fee of Two Dollars and Fifty Cents (\$2.50), which shall be required of any resident of another State, unless he holds a Lake Texoma Special Fishing License, and which shall entitle the holder to fish in Lake Texoma only; Lake Texoma Nonresident Hunting License, fee Two Dollars and Fifty Cents (\$2.50), which shall entitle the holder to hunt migratory waterfowl only on Lake Texoma and its federally owned lands; Special Lake Texoma Nonresident Hunting License, fee Two Dollars (\$2), which shall entitle any resident citizen of Oklahoma who is licensed to hunt in that State to hunt only migratory waterfowl on Lake Texoma and its federally owned area in this State.

Sec. 4. Any person who holds a Nonresident Hunting License, issued by this State, shall be entitled to hunt on Lake Texoma without any additional hunting license issued by this State. Any person who holds a Nonresident Fishing License issued by this State shall be entitled to fish in the Texas portion of Lake Texoma without any additional license. No hunting or fishing license shall be required of any resident of this State who is under seventeen (17) years of age.

Sec. 5. Any person who hunts or attempts to hunt with a gun, or who fishes or attempts to take or catch fish in or over Lake Texoma and its federally owned lands in Cooke or Grayson Counties, without first procuring and having in possession on his person the license privileging him to so hunt or fish within said area, or any person who fails upon demand by any officer of this State to show the currently valid license that is required of him by this Act, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than Ten Dollars (\$10) nor more than Fifty Dollars (\$50).

Sec. 6. After a fee of ten cents (10¢) is deducted by the agent for each license sold, all funds derived from the sale of licenses that are created by this Act shall be remitted by the tenth day of each month following the sale of such licenses to the Game, Fish and Oyster Commission at its office in Austin, Texas, and shall be deposited in the State Treasury to the credit of the Special Fish Propagation and Protection Fund, and this portion of said fund shall be used for the purposes of law enforcement, purchasing necessary supplies and equipment and maintaining and operating same, making investigations, propagating, distributing, and improving environmental conditions for game and fish, but only for the benefit of game and fish in that section of this State to

which this Act applies. In addition to the foregoing purposes, not more than ten per cent (10%) of the moneys derived from the sale of licenses created by this Act shall be used for the purpose of administering the provisions of this Act. Each and every license provided for by a provision of this Act shall be valid until August 31, following the date of its issuance; provided, however, that any license that is issued on or before August 31, 1945, shall be valid until August 31, 1946. All licenses created by this Act shall be printed under the directions of the Game, Fish and Oyster Commission and shall be made available to the public by this Commission after the usual manner of offering such licenses for sale.

Sec. 7. All laws or parts of laws, special or general, in so far as they may conflict with any portion of this Act, shall be and the same are hereby repealed.

Sec. 8. If any portion of this Act should be held invalid or inoperative, such declaration shall not affect other portions of this Act. Acts 1945, 49th Leg., p. 35, c. 25.

¹ Vernon's Ann.Pen.Code, art. 978l—3.

Emergency. Effective March 10, 1945.

Title of Act:

An Act declaring the policy of the State of Texas with reference to regulations permitting the taking of game and fish in that portion of the State inundated by a dam across Red River at Denison, Texas, and the federally owned lands in connection therewith, under the provisions of Chapter 213, House Bill No. 654, Regular Session, Forty-eighth Legislature, which is continued in effect; providing for certain li-

censes for the privilege of hunting or fishing in or over Lake Texoma and its connecting federally owned lands and fixing the fees for same; providing a suitable penalty for violation of any provision of this Act; providing for disposition of funds collected from the sale of such licenses; prescribing purposes for which said funds may be used; repealing conflicting laws; providing a rule of construction; and declaring an emergency. Acts 1945, 49th Leg., p. 35, c. 25.

Art. 978m. Repealed. Acts 1945, 49th Leg., p. 289, ch. 209, § 1. Eff. 90 days after June 5, 1945, date of adjournment

Derived from Acts 1937, 45th Leg., p. 1321, ch. 487 and related to Coastal Division of Game, Fish and Oyster Commission.

Art. 978n. Game management unit for benefit of Texas Bighorn Mountain Sheep

Section 1. The Texas Bighorn Mountain Sheep (*Ovis canadensis texiana*) is making its last stand in the Sierra Diablo Mountains of Culberson and Hudspeth Counties. Unless the State makes every reasonable endeavor to preserve this majestic form of wildlife by affording it freedom from the encroachment of domestic livestock and predators, they will have perished. The loss of mountain sheep as part of the native fauna of this State would rob future generations of their rightful heritage to the symbols of the natural wildness of this State. In order to protect this interesting animal it is necessary that a fenced game management area be set aside. All lands to be included with such area shall be in Culberson and Hudspeth Counties. It is hereby declared the policy of the State of Texas to do everything within the bounds of sound economy to perpetuate the Texas species of the Rocky Mountain Bighorn Sheep. The purpose of this bill is to give the Game, Fish and Oyster Commission the authority to purchase not to exceed twelve (12) sections of privately owned land and to purchase not to exceed eight (8) sections of public school lands in Culberson and Hudspeth Counties.

Gifts

Sec. 2. The Game, Fish and Oyster Commission of the State of Texas is hereby authorized to accept gifts of land in Culberson or Hudspeth Counties or money to be deposited in the Special Game Fund and to be used for the purpose of a game management unit in Culberson and Hudspeth Counties for the special benefit of the Texas Bighorn Mountain Sheep.

Purchase of school lands

Sec. 3. The Game, Fish and Oyster Commission of the State of Texas is hereby authorized to purchase, and the school land board of the State of Texas is authorized to sell, with the reservation of all minerals to the school fund, to be managed by said school land board, at a price not to exceed One Dollar (\$1) per acre, the surface rights in and to not more than eight (8) sections of public school lands located in Culberson and Hudspeth Counties, in the following blocks:

Blocks 65 and 66, T. & P. Ry. Co. land;

Blocks 42½, 43, 54½, Public School Lands;

said lands to be paid for by the Game, Fish and Oyster Commission out of the Special Game Fund.

Acquisition of other lands

Sec. 4. The Game, Fish and Oyster Commission shall have the right to acquire by purchase other lands in Culberson and Hudspeth Counties, Texas, that may be deemed necessary for the operation of a game management unit primarily for the protection of Bighorn Mountain Sheep. Upon approval of the title by the Attorney General of this State, said Game, Fish and Oyster Commission is hereby authorized to pay for such land so purchased out of the Special Game Fund.

Power to appropriate land

Sec. 5. The State of Texas, through said Game, Fish and Oyster Commission, shall have the right, power, and authority to enter upon, condemn, and appropriate not more than twelve (12) sections of land in Culberson and Hudspeth Counties of any person or corporation for the above mentioned purposes.

Condemnation proceedings; payment of damages

Sec. 6. The manner and method of such condemnation, easement, and payment of damages therefor shall be the same as is now provided by law in the case of railroads. Condemnation suits brought under this Act shall be brought in the name of the State of Texas by the Attorney General at the request of the Game, Fish and Oyster Commission in Travis County, Texas. All costs in such proceedings shall be paid by the State or by the person against whom such proceedings are had, to be determined as in the case of railroad condemnation proceedings. All damages and pay or compensation for property awarded in such proceedings shall be paid by the State of Texas, by warrant drawn on the Comptroller against the Special Game Fund in the State Treasury.

Partial invalidity

Sec. 7. If any section, sentence, clause, or part of this Act shall, for any reason, be held to be invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portions of this Act, and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause, or part thereof, irrespective of the fact that any other sentence, section, clause, or part thereof may be declared invalid.

Expenditures

Sec. 8. All expenditures provided for under this Act shall be made from the Special Game Fund of the Game, Fish and Oyster Commission, which expenditure shall not exceed Twenty Thousand Dollars (\$20,000) in any one year, and three-fourths ($\frac{3}{4}$) of which shall be reimbursed out of any Federal Aid in Wildlife Restoration funds available to this State. Said funds are hereby appropriated out of the Special Game Fund for the purposes heretofore stated. Acts 1945, 49th Leg., p. 310, ch. 225.

Emergency. Effective May 23, 1945.

Section 9 of the Act of 1945 repealed all laws or parts of laws in so far as they conflict with any portion of that act.

Title of Act:

An Act declaring the policy of the State of Texas toward the perpetuation of the Texas Bighorn Mountain Sheep, declaring the purpose of the Legislature to authorize the purchase of not to exceed twelve (12) sections of privately owned, and not to exceed eight (8) sections of public school lands in Culberson and Hudspeth Counties; authorizing the acceptance by the Game, Fish and Oyster Commission of gifts of moneys or of lands in said Counties for the purpose of a game management unit for the special benefit of said species; authorizing said Commission to purchase, and the school land board to sell, at not more than One Dollar (\$1) per acre, certain de-

scribed lands in Culberson and Hudspeth Counties; specifying the funds out of which such payment for land shall be made; authorizing the purchase by said Commission of other lands in said Counties necessary for operation of a game management unit for the protection of said species; authorizing the condemnation of land by the State of Texas for said purposes; prescribing the method and manner by which such lands may be condemned and compensation and damages may be awarded; repealing conflicting laws; providing a rule of construction; providing an appropriation out of the Special Game Fund, three-fourths ($\frac{3}{4}$) to be reimbursed out of any Federal Aid in Wildlife Restoration funds available to this State; and declaring an emergency. Acts 1945, 49th Leg., p. 310, ch. 225.

CHAPTER 6A-MISCELLANEOUS OFFENSES [NEW]

Art.

978o. Use of public property for private profit.

Art. 978o. Use of public property for private profit

Section 1. If any officer of this State or of any county or of any municipality shall knowingly use or permit to be used for private profit to himself other than to the State, county, or municipality, any property, supplies, equipment, or other thing of value belonging to the State or to any county or municipality, he shall be punished by fine of not more than One Thousand Dollars (\$1,000) or by imprisonment in the County Jail for not more than two (2) years or by both such fine and imprisonment.

Sec. 2. If any officer of any county or of any municipality shall knowingly use or knowingly permit to be used for private profit to himself the labor or service of any person whose labor or service is paid for by such county, he shall be punished by fine of not more than One Thousand Dollars (\$1,000) or by imprisonment in the County Jail for not more than two (2) years or by both such fine and imprisonment.

Sec. 3. If any person appointed or employed by any officer of any county or by the Commissioners Court of any county, or by any officer or any person appointed or employed by any municipality, or any person engaged in performing any business of any county or by any municipality however employed, shall knowingly use or knowingly permit to be used for private profit to himself any property, supplies, equipment, or other thing of value belonging to such county or to such municipality, he shall be punished by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment in the County Jail for not more than two (2) years or by both such fine and imprisonment.

Sec. 4. If any person appointed or employed by any officer of any county or by any officer of any municipality or any person engaged in performing any business of any county or of any municipality however employed, shall knowingly use or knowingly permit to be used for private profit to himself the labor or service of any person whose labor or service is paid for by such county or by such municipality, he shall be punished by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment in the County Jail for not more than two (2) years or by both such fine and imprisonment. Acts 1945, 49th Leg., p. 653, ch. 363.

Emergency. Effective June 23, 1945.

Title of Act:

An Act to provide a penalty for the private use of county property or labor or services paid for by a county, including supplies, equipment, or other things of value belonging to such county; and making it unlawful for any officer of any county to knowingly use the labor services of any person whose labor service is paid for

by such county for private use; and providing that if any person appointed or employed by any officer of any court or the Commissioners Court of any county shall knowingly use or permit to be used the labor or services of any person whose labor or service is paid for by such county for private use or profit shall be guilty of a misdemeanor; and declaring an emergency. Acts 1945, 49th Leg., p. 653, ch. 363.

TITLE 14—TRADE AND COMMERCE

CHAPTER FOUR—WAREHOUSES AND COTTON

Art. 1034. Pink Bollworm laws

Whoever shall transport any cotton or cotton products by any means from any territory in this State which has been quarantined and placed under restrictions by proclamation of the Governor of the State, in accordance with the authority conferred by the laws of this State relating to the pink bollworm; or whoever shall violate any proclamation or any rule, regulation or other restriction authorized by said laws or bring into the State any material contaminated with said worm or its eggs; or whoever shall plant, cultivate, grow, allow to grow, gather, transport or market cotton in or from any territory in this State, that has been quarantined and declared a non-cotton zone and placed under restrictions by any of the proclamations authorized by said laws; or whoever shall fail to comply with any of the said rules and regulations so promulgated for the control and direction of cotton growing and marketing in any restricted or regulated zone; or shall violate any proclamation, regulation or restriction authorized by said laws, or any ginner who shall fail or refuse to disinfect cotton seed as provided for in said laws; or whoever shall wilfully refuse or knowingly neglect to comply with any such proclamation, restriction or regulation promulgated and maintained for the protection of the cotton industry, shall be fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), or shall be imprisoned in jail for not less than ten (10) days nor more than thirty (30) days, or may be punished by both such fine and imprisonment. Each transaction of each product so shipped or transported, and each act in violation of the restrictions herein authorized governing the planting, growing, marketing and cleaning the fields, shall constitute a separate offense. The District Court of the county in which any criminal case is filed under the provisions of this article may, upon the application of either the State or of the defendant and a showing that the applicant cannot obtain a fair trial in that county, order a change of venue to an adjoining county or district. As amended Acts 1945, 49th Leg., p. 250, ch. 184, § 1.

Emergency. Effective May 9, 1945.

Section 2 of the amendatory act of 1945 read as follows:

"If any word, phrase, clause, sentence, paragraph, section or part of this Act shall

be held by any Court of competent jurisdiction to be invalid as unconstitutional, or for other reasons, it shall not affect any other phrase, clause, sentence, paragraph, section or part of this Act."

CHAPTER ELEVEN-A—STORES AND MERCANTILE ESTABLISHMENTS

Art. 1111d. Operating stores or mercantile establishments without license unlawful

License fees; exemptions

Sec. 5. Every person, agent, receiver, trustee, firm, corporation, association or copartnership opening, establishing, operating, or maintaining one or more stores or mercantile establishments within this State, under the same general management, or ownership, shall pay the license fees hereinafter prescribed for the privilege of opening, establishing,

operating or maintaining such stores or mercantile establishments. The license fee herein prescribed shall be paid annually and shall be in addition to the filing fee prescribed in Sections 2 and 4 of this Act. Provided that the terms, "store, stores, mercantile establishment or mercantile establishments," wherever used in this Act shall not include: any place or places where or from which nothing is sold except ice; any wholesale and/or retail lumber and/or building material place of business, provided as much as seventy-five (75) per cent of the gross proceeds of the business done each preceding calendar year at such place of business is derived from the sale of lumber and/or building material, providing that the term 'building material' as used herein shall be construed to include any material which is used or usable in the construction of buildings, improvements or structures, including materials consumed in and any article to be built into and become a part of buildings, improvements or structures; also mechanics' hand tools used in the construction of buildings, improvements or structures; and/or oil and gas well supplies and equipment dealers; and any place of business commonly known as a gasoline filling station, service station, or gasoline bulk station or plant, provided as much as seventy-five (75) per cent of the gross proceeds of the business done thereat is derived from the selling, storing, or distributing of petroleum products; or any business now paying an occupation tax measured by gross receipts; or any place or places of business used as bona fide wholesale or retail distributing points by manufacturing concerns for distribution of products of their own manufacture only; or any place or places of business used by bona fide processors of dairy products for the exclusive sale at retail of such products; or any place or places of business commonly known as Religious Book Stores, operated for the purposes of selling Religious Publications of any nature, including Bibles, Song Books, Books upon Religious Subjects, Church Offering Envelopes, Church, Sunday School and Training Union Supplies, provided that gas and/or electric utilities shall not hereafter be required to pay any tax or fee under this Act for the privilege of operating in towns of three thousand (3,000) population or less, according to the next preceding Federal Census, a store or stores for the purpose of selling gas and/or electric appliances and/or parts for the repair thereof, provided as much as seventy-five (75) per cent of the total gross receipts in the preceding calendar year in each such town where such a store or stores are located is derived from the sale therein of gas and/or electric service, and provided further that for the privilege of operating a store or stores in towns of more than three thousand (3,000) population, according to the next preceding Federal Census, for the purpose of selling any or all of the above named commodities, gas and/or electric utilities shall pay only the fees imposed by Sections 2, 4, and 5 of this Act.

The license fees herein prescribed shall be as follows:

1. Upon one (1) store the license fee shall be One Dollar (\$1);
2. Upon each additional store in excess of one (1) but not to exceed two (2), the license fee shall be Six Dollars (\$6);
3. Upon each additional store in excess of two (2) but not to exceed five (5), the license fee shall be Twenty-five Dollars (\$25);
4. Upon each additional store in excess of five (5) but not to exceed ten (10), the license fee shall be Fifty Dollars (\$50);
5. Upon each additional store in excess of ten (10) but not to exceed twenty (20), the license fee shall be One Hundred and Fifty Dollars (\$150);
6. Upon each additional store in excess of twenty (20) but not to exceed thirty-five (35), the license fee shall be Two Hundred and Fifty Dollars (\$250);

7. Upon each additional store in excess of thirty-five (35) but not to exceed fifty (50), the license fee shall be Five Hundred Dollars (\$500);

8. Upon each additional store in excess of fifty (50), the license fee shall be Seven Hundred and Fifty Dollars (\$750);

Such fees are for the period of twelve (12) months, and upon the issuance of any license after the first day of January of any one year, there shall be collected such fractional part of the license fee hereinabove fixed as the remaining months in the calendar year (including the month in which such license is issued) bear to the twelve-month period. As amended Acts 1945, 49th Leg., p. 72, ch. 51, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Section 2 of the amendatory Act of 1945 expressly repealed all conflicting laws and parts of laws.

Section 3 of the amendatory Act of 1945 read as follows:

"Sec. 3. If any Section, sub-section, sentence, clause or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act."

CHAPTER TWELVE—MISCELLANEOUS OFFENSES

Arts. 1132, 1133. Repealed. Acts 1945, 49th Leg., p. 517, ch. 315, § 26.
Eff. 90 days after June 5, 1945, date of adjournment

TITLE 17—OFFENSES AGAINST PROPERTY

CHAPTER THREE—MALICIOUS MISCHIEF

Art.

1373—a. Killing certain domestic animals; scattering or depositing poison [New].

Art. 1351a. Misuse of grazing land under one fence, injunction

Sec. 2—a. Any person entitled to recover damages by suit under the provisions of Section 1 of this Act, or any person in whose favor a suit for damages may lie under the provisions thereof, shall, in addition to all other relief and remedies provided for in said Section, be entitled to an injunction in the proper court against any person or persons violating any of the provisions of this Act, upon proper showing and proof, enjoining the further violation or threatened violation of said provisions. Added Acts 1945, 49th Leg., p. 544, ch. 330, § 1.

Section 2—a added by Acts 1945 become effective 90 days after June 5, 1945, date of adjournment.

Art. 1373. Maiming, wounding or disfiguring domesticated animal; killing, etc., to injure owner

Whoever shall wilfully maim, wound or disfigure any horse, ass, mule, cattle, sheep, goat, swine, dog or other domesticated animal, or whoever shall wilfully kill, maim, wound, poison, or disfigure any dog, domesticated bird or fowl of another with intent to injure the owner thereof, shall be fined not less than Ten Dollars (\$10) nor more than Two Hundred Dollars (\$200). In prosecutions under this Article the intent to injure may be presumed from the perpetration of the act. As amended Acts 1945, 49th Leg., p. 395, ch. 257, § 1.

Effective 90 days after June 5, 1945, date of adjournment.

Art. 1373—a. Killing certain domestic animals; scattering or depositing poison

Whoever shall wilfully kill any horse, ass, mule, cattle, sheep, goat or swine of another, or whoever shall wilfully scatter or deposit poison on the lands owned or in possession of another, with intent to injure the owner thereof, or on any open range, public road or highway or other public area, and by so scattering or depositing poison kills or injures any horse, ass, mule, cattle, sheep, goat or swine of another, shall be punished as follows:

1. If the value of the animal or animals killed, or the injury to the animal or animals poisoned as above set out, but not killed, is Fifty Dollars (\$50) or over, the punishment shall be confinement in the penitentiary for not less than two (2) nor more than ten (10) years.

2. If the value of the animal or animals killed, or the injury to the animal or animals poisoned as above set out, but not killed, is under Fifty Dollars (\$50) and over Five Dollars (\$5), the punishment shall be imprisonment in jail not exceeding two (2) years and by fine not exceeding Five Hundred Dollars (\$500), or by such imprisonment without fine.

3. If the value of the animal or animals killed, or the injury to the animal or animals poisoned as above set out, but not killed, is of the value of Five Dollars (\$5) or under, the punishment shall be a fine not exceeding Two Hundred Dollars (\$200). Added Acts 1945, 49th Leg., p. 395, ch. 257, § 2.

TITLE 18—LABOR

CHAPTER SIX—WORKMEN AND FIREMEN

Art.

1583—1. Hours of work of firemen and policemen [New].

Art. 1583—1. Hours of work of firemen and policemen

Section 1. No member of any fire department or police department in any city of more than twenty-five thousand (25,000) inhabitants shall be required to be on duty more than six (6) days in any one week.

Sec. 2. The preceding subdivision shall not apply to cases of emergency.

Sec. 3. Each member of any such departments in any city of more than thirty thousand (30,000) inhabitants shall be allowed fifteen (15) days vacation in each year with pay; provided that the provisions of this Section of this Act shall not be applied to any member of any such department in any city of more than thirty thousand (30,000) inhabitants unless such member shall have been regularly employed in such department or departments for a period of at least one (1) year.

Sec. 4. Each preceding Federal Census shall determine the population.

Sec. 5. The city officials having supervision of the fire department and police department shall designate the days of the week upon which each such member shall not be required to be on duty, and the days upon which each such member shall be allowed to be on vacation.

Sec. 6. It shall be unlawful for any city of more than forty thousand (40,000) inhabitants to require or permit any such fireman and policeman to work more than twelve (12) hours per calendar day or more than seventy-two (72) hours in any one calendar week, and in no event, more than one hundred and forty-four (144) hours in any two (2) consecutive calendar weeks in the discharge of their duties except in case of emer-

agency which may arise where it may become necessary to work more than twelve (12) hours per calendar day, or more than seventy-two (72) hours in any one calendar week, or more than one hundred and forty-four (144) hours in any two (2) consecutive calendar weeks for the protection of property or human life; said fireman and policeman shall draw additional compensation for the number of hours worked in addition to the regular twelve-hour calendar day, or more than the regular seventy-two (72) hours in any one calendar week, or more than the regular one hundred and forty-four (144) hours in any two (2) consecutive calendar weeks; or if required to work on any day which has been designated as the day of the week that such member of said department should not be required to be on duty, additional compensation at the rate of time and one-half overtime computed upon the basis of their monthly salary shall be paid to them for such additional time as they are required to work.

Sec. 7. It is further provided that in any city of more than forty thousand (40,000) inhabitants each member of any such department shall receive the sum of One Hundred and Fifty (\$150.00) Dollars per month as a minimum wage for said services so rendered.

Sec. 8. The city official having charge of the fire department or police department in any such city who violates any provision of this Act shall be fined not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars, and each day on which said city official shall cause or permit any Section of this Act to be violated shall constitute and be a separate offense.

Sec. 9. Nothing in this Act shall be construed as amending, altering or changing in any manner whatsoever the provisions of Article 1583, Penal Code of Texas, as amended, Acts 1935, 44th Legislature, page 377, Chapter 139, Section 1; Acts 1937, 45th Legislature, page 358, Chapter 173, Section 1; Acts 1943, 48th Legislature, page 309, Chapter 201, Section 1. This Act is cumulative and in addition to said laws set out in this Section. Acts 1945, 49th Leg., p. 55, c. 38.

Emergency. Effective March 23, 1945.

Title of Act:

An Act prescribing the maximum days that firemen or policeman can be required to work in cities over 25,000; providing fifteen days vacation in cities over 30,000 inhabitants; providing minimum salary wage and method and manner of compensation under certain circumstances and conditions for all firemen and policemen in cities of more than 40,000 inhabitants ac-

ording to the last preceding Federal Census; providing that nothing herein shall conflict with Article 1583, Penal Code of Texas, as amended; and providing that this Act be cumulative and in addition to said Article 1583, Penal Code of Texas, as amended; providing a penalty for the violation of this Act, and declaring an emergency. Acts 1945, 49th Leg., p. 54, c. 38.

TITLE 19—MISCELLANEOUS OFFENSES

CHAPTER THREE—TRUSTS AND CONSPIRACIES AGAINST TRADE

Cabbage standardization and inspection act does not amend, modify, suspend or repeal this chapter, see Vernon's Ann.Civ.St., art. 118c—2, § 14.

THE
CODE OF CRIMINAL
PROCEDURE

TITLE 8—TRIAL AND ITS INCIDENTS

CHAPTER THREE—FORMATION OF JURY IN CAPITAL CASES

Art. 625. 701 Special pay for veniremen

Veniremen summoned on special venire who have been challenged on their voir dire, shall each be paid out of the jury fund Two Dollars (\$2) for each day he attends court on said summons. If the regular venire shall be exhausted, and talesmen summoned as provided by law, the talesmen challenged on their voir dire shall each be paid out of the jury fund Two Dollars (\$2) for each day he attends court on said summons, and no greater sum shall be paid challenged venireman and talesman regardless of the number of cases to which they shall be summoned in any one day. All veniremen and talesmen taken on trial juries shall receive the same per diem paid petit jurors. As amended Acts 1945, 49th Leg., p. 371, ch. 239, § 1.

Emergency. Effective, May 24, 1945.

Section 3 of the amendatory act of 1945 amends Vernon's Ann.Civ.St., art. 2122.

Section 4 repealed art. 1057.

TITLE 14—FUGITIVES FROM JUSTICE

Art. 1006. Pay of agent; traveling expenses

Section 1. The officer or person so commissioned shall receive as compensation the actual and necessary traveling expenses upon requisition of the Governor to be allowed by such Governor and to be paid out of the State Treasury upon a certificate of the Governor reciting the services rendered and the allowance therefor.

Sec. 2. The Commissioners Court of the county where an offense is committed may in its discretion, on the request of the Sheriff and the recommendation of the District Attorney, pay the actual and necessary traveling expenses of the officer or person so commissioned out of any fund or funds not otherwise pledged. As amended Acts 1945, 49th Leg., p. 457, ch. 288, § 1.

Emergency. Effective May 31, 1945.

Section 2 of the act of 1945 repealed all acts theretofore in force in conflict therewith.

Section 2 of Acts 1935, 44th Leg., p. 412, ch. 162, repeals all conflicting laws.

TITLE 15—COSTS IN CRIMINAL ACTIONS**CHAPTER THREE—COSTS PAID BY COUNTIES****Art. 1041. 1143 Guards and matrons**

The sheriff shall be allowed for each guard or matron necessarily employed in the safe-keeping of prisoners Two Dollars and Fifty Cents (\$2.50) for each day. No allowance shall be made for the board of such guard or matron, nor shall any allowance be made for jailer or turnkey, except in counties having a population in excess of forty thousand (40,000) inhabitants according to the last preceding Federal Census. In such counties of forty thousand (40,000) or more inhabitants, the Commissioners Court may allow each jail guard, matron, jailer and turnkey Four Dollars and Fifty Cents (\$4.50) per day; provided that in counties having a population in excess of seventy thousand (70,000) inhabitants and less than two hundred and twenty thousand (220,000) inhabitants, according to the last preceding Federal Census, the Commissioners Court of such counties may allow each jail guard, jailer, matron and turnkey a monthly salary of One Hundred and Fifty Dollars (\$150); provided further that, in counties having a population in excess of two hundred and twenty thousand (220,000) inhabitants, according to the last preceding Federal Census, each jail guard, matron, jailer, jail bookkeeper and turnkey shall be paid not less than One Hundred and Seventy-five Dollars (\$175) per month. As amended Acts 1945, 49th Leg., p. 205, ch. 158, § 1.

Emergency. Effective May 4, 1945.

Art. 1056. [1158-60] Pay of jurors

Each juror in the district or criminal district court, county court or county court at law, except special veniremen and talesmen challenged on their voir dire whose pay is now fixed by law, shall receive Four Dollars (\$4) for each day and for each fraction of a day he attends court as such juror, to be paid out of the jury fund of the county. Jurors in justice courts who serve in the trial of criminal cases in such courts shall receive fifty cents (50¢) in each case they sit as jurors, provided that no juror in such court shall receive more than One Dollar (\$1) for each day or fraction of a day he may so serve as such juror. Grand Jurors shall each receive Four Dollars (\$4) for each day and for each fraction of a day that they may serve as such. The same per diem shall be paid to all persons responding to the process of the court but who are excused by the court from jury service for any cause, after being tested on their voir dire. Acts 1945, 49th Leg., p. 371, ch. 239, § 2.

Effective, May 24, 1945.

Art. 1057. Repealed. Acts 1945, 49th Leg., p. 371, ch. 239, § 4. Eff. May 24, 1945.

Pay of jurors, see art. 1056.

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